

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2018

CORAM:

The Hon'ble Mr.Justice P. RAJAMANICKAM

CRL.O.P.No.21714 of 2018

Kannan

.. Petitioner

Vs.

The State, Represented by its  
The Revenue Divisional Officer,  
Attur Taluk,  
Salem District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the Judicial Magistrate No.II, Attur to number the unnumbered C.M.P.No. of 2018 in Crime No.78 of 2018.

For Petitioner : Mr.M.R.Franklin

For Respondent : Ms.M.Prabhavathi  
Additional Public Prosecutor

ORDER

This petition has been filed to direct the Judicial Magistrate No.II, Attur, to number the unnumbered C.M.P. in Crime No.78 of 2018.

2. The learned counsel for the petitioner has submitted that the respondent has seized the petitioner's tractor bearing registration Number TN-54-Y-9041 on 18.02.2018, as if, the said vehicle has been used for transporting sand. He further submitted that the petitioner learnt that the said vehicle produced before the Inspector of police, Thalaivasal Police station, Salem and a complaint was lodged. Based on the same, the Inspector of Police, Thalaivasal Police station, Salem, has registered a case in crime No. 78 of 2018 under Section 21(4) of MMDR Act 1957. He further submitted that once the vehicle is seized, the concerned Inspector of Police has to produce the vehicle before the Judicial Magistrate and hence, the petitioner has filed a petition before the Judicial Magistrate No.II, Attur, for returning of the vehicle. The concerned Magistrate

has returned the said petition stating that no such FIR is pending before the Court. He further submitted that since the vehicle has been seized by the Inspector of Police, Thalaivasal Police Station, Salem, concerned Judicial Magistrate may be directed to number the said petition and dispose of the same in accordance with law.

3. The respondent has filed a status report stating that the petitioner's Tractor bearing registration No.TN-54-Y-9041 has been used for transporting sand illegally and hence, the respondent has seized the said vehicle and lodged a complaint before the Inspector of Police Thalaivasal Police station, Salem in Cr.No.78 of 2018 under section 21(4) of MMDR Act 1957 and after registering the case, the vehicle has been again handed over to the respondent and now the vehicle is only with the respondent. He also stated that the respondent, by invoking Rule 36-A of the Tamilnadu Mines and Minerals Rules 1959 has passed an order imposing a fine of Rs.26,720/- and hence, after paying the said fine amount, the petitioner can get back the said vehicle.

4. As per the status report filed by the respondent, the concerned vehicle is only with the respondent. Therefore, the Judicial Magistrate No.II, Attur, cannot be directed to entertain the petitioner's petition. It is open to the petitioner to approach the respondent for return of the vehicle.

5. With the aforesaid observation, this petition is disposed of.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,  
Attur

2. The Revenue Divisional Officer,  
Attur Taluk,  
Salem District.

3. The Public Prosecutor,  
High Court of Madras,  
Chennai.

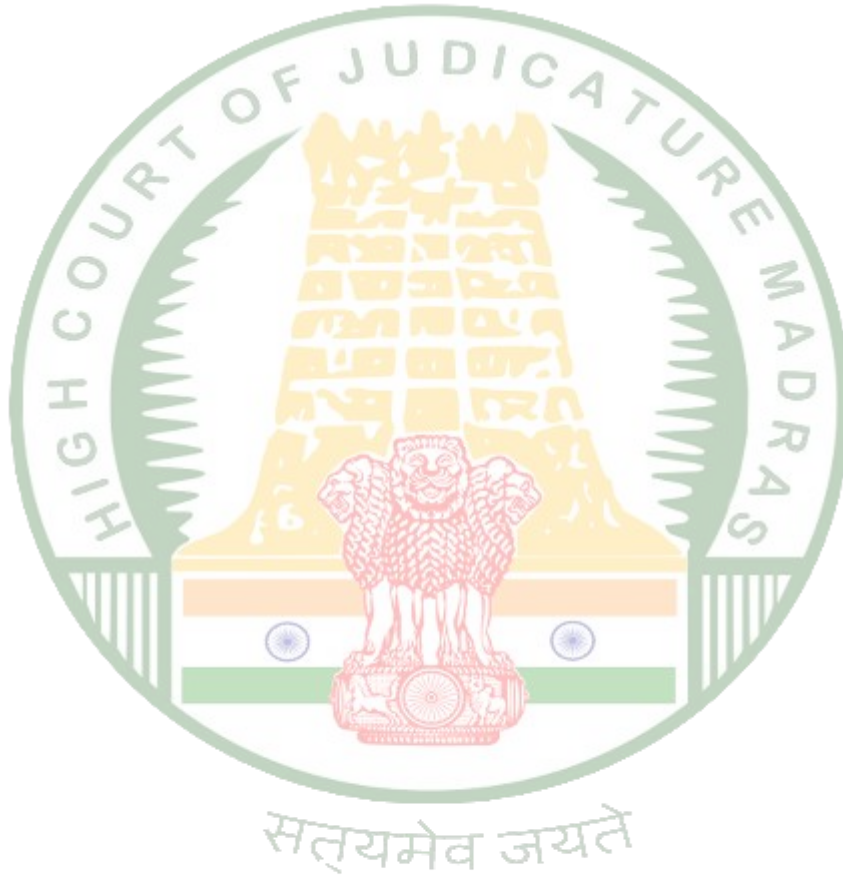
4. The Inspector of Police,  
Thalaivasal Police, Station,

Salem.

+lcc to Mr.M.R.Franklin, Advocate, S.R.No.66362

CRL.O.P.No.21714 of 2018

KAN (CO)  
GSP (25/09/2018)



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