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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.12.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.26802 of 2018

S.Saravanan

... Petitioner/Petitioner

Vs.

State Rep. by its
The Inspector of Police,
Singarapettai Police Station,
Uthangarai Taluk,
Krishnagiri District.

... Respondent/Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to direct the learned Judicial Magistrate, Uthangarai, to entertain the petition for return of vehicle in Cr.M.PSR.No.2120 of 2018 in Crime No.267 of 2018 of respondent and release the vehicle.

For Petitioner

: Mr.K.Thiruvengadam

For Respondent

: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed for a direction to the learned Judicial Magistrate, Uthangarai, to entertain the petition filed by the petitioner for return of vehicle which was seized in Crime No.267 of 2018 for an alleged offence under Section 379 of IPC r/w Section 21(1) (4) of Mines and Minerals Act.

2. The learned counsel for the petitioner would submit that he is the owner of the vehicle and he is using the vehicle for his Agricultural activities. The respondent police have registered a case against one Govindan and Sargunam for the above said offences alleging that they have committed sand theft in the vehicle belonging to the petitioner. The learned counsel would further submit that the petitioner is not an accused in the said case.

3. The petitioner filed a petition before the Court below seeking for return of the vehicle. However, the Court below had



returned the petition on the ground that this Court had given a direction in a public interest litigation to the effect that the vehicle involved in offences under the Mines and Minerals Act, should not be entertained.

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4. The learned counsel for the petitioner brought to the notice of this Court, the decision of the Division Bench of this Court made in W.P.(MD) Nos.22023 to 22026 of 2018 , etc., in the case of Gandhi and others dated 29.10.2018. The learned counsel for the petitioner also relied upon the directions given by the Division Bench of this Court. The learned counsel particularly relied upon certain observations which were made by the Division Bench and which are extracted hereunder.

"4. According to the petitioners, the official respondents seized the vehicles in question on the ground of want of valid permit and till date no order has been passed by the respondents concerned. Hence, these writ petitions have been filed.

5. On the other hand, it is submitted by the learned Government Advocate / Special Government Pleader / Additional Government Pleader appearing for the respective respondents that the vehicles in question were used for illegal transportation of mines and minerals like sand, gravel etc., and hence they were seized.

6. In any event, as the vehicles are under the custody of the respondents from the date of seizing and considering the fact that if the same is allowed to be kept idle by exposing the same to sun and rain, it would certainly diminish their values. Therefore, this Court is of the view that the vehicles may be released by imposing conditions on the petitioners for release of the same.

7. Accordingly, the concerned respondents are directed to release the vehicle in question to the petitioner within a period of 7 days from the date of receipt of a copy of this order subject to the following conditions:

(i) The petitioners shall produce necessary documents before the respondents to establish the ownership of the vehicle in question;

(ii) The petitioners in W.P.(MD).Nos.21539, 21416 and 21300 of 2018 shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, before the Tahsildar concerned as non refundable deposit and the petitioners in other cases shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) each, before the Tahsildar



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concerned as non refundable deposit;

(iii) The petitioners shall give an undertaking that he will not use the vehicle for any illegal activities in future and shall produce the same as and when required by the respondents;

(iv) On doing so, the vehicle in question shall be returned to the petitioner;

(v) The petitioners shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned; and

(vi) The petitioners are also directed to participate in the enquiry to be conducted by the respondents."

8. The Tahsildar concerned is further directed to file a private complaint in terms of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, before the jurisdictional Court. This will have to be done within a period of one week from the date of receipt of a copy of this order.

9. We make it clear that this order is passed only on the ground that a final order will have to be passed on the larger issue with respect to the maintainability of the writ petitions before this Court viz-a-viz, the right of the revenue officials in realizing and adjudicating such reliefs by exercising power under Rule 36 as against Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, and therefore, this order cannot be taken as a precedent.

10. Further we direct the petitioners to produce the vehicle before the trial Court as and when required failing, which the Court is at liberty to confiscate them.

11. Similarly, the same observation will apply to those cases, where FIR have been registered by the jurisdictional police for the offences under Section 379 IPC., in which case, the vehicles will be produced before the jurisdictional Magistrate. In such cases, the jurisdictional Tahsildars, on receipt of the same shall file private complaints for the alleged violation under the Mines and Minerals (Development and Regulation) Act, 1957. The police concerned will have to give such due intimation, within a period of one week from the date of receipt of a copy of this order."

5. The Court below is directed to entertain the petition filed by the petitioner for return of vehicle and shall strictly



follow the directions given by this Court in the order referred supra. In any case, the Court below shall take the decision within a period of ten days from the date of receipt of a copy of this order.

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6. The Registry is directed to return the original papers filed by the petitioner in order to enable the petitioner to represent it before the Court below.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Uthangarai.

2.The Inspector of Police,
Singarapettai Police Station,
Uthangarai Taluk,
Krishnagiri District.

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

+1cc to Mr.K.Thiruvengadam, Advocate sr.no.83312(14/12/2018)

Cr1.O.P.No.26802 of 2018

sj(co)
nr 04/12/2018