

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1373 of 2018

A.Balamurugan

...Petitioner

Vs.

State: rep. by its
Inspector of Police,
Otteri Police Station,
Kancheepuram District.
(Crime No.271 of 2018)

...Respondent

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed by the learned Judicial Magistrate No.II, Chengalpattu in dismissing the petition filed under Section 451 r/w 457 Cr.P.C. in Crl.M.P.No.4647 of 2018 by an order dated 08.11.2018.

For Petitioner : Mr.G.Punniakoti

For Respondent : Mr.G.Harihara Arun Somasankar,
Government Advocate (Crl.Side)

ORDER

The above criminal revision case has been filed against the order passed by the learned Judicial Magistrate II, Chengalpattu in Crl.M.P.No.4647 of 2018 in Crime No.271 of 2018, rejecting the petition filed under Section 451 r/w 457 of Cr.P.C. for return of vehicle involved in Crime No.271 of 2018 for the offence under Section 430 and 379 of IPC.

2 The learned Judicial Magistrate has rejected the application on the ground that the Division Bench of this Court in W.P.(MD).No.7595 of 2018 in the case of Mahalingam vs. The Secretary of Government, Public Works Department, Secretariat Chennai and 6 others, has passed an interim order dated 24.09.2018, stating that no courts in the state shall entertain any request from the owners of the vehicles involved in illegal sand mining. Based on the order passed by the Division Bench of this Court, the learned Judicial Magistrate rejected the petition filed by the petitioner.

3 While rejecting the petition, the petitioner has also given liberty to file a fresh petition before the learned Magistrate, depending upon the outcome of the final order of the above writ petition. When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the original order dated 24.09.2018 has been subsequently modified by the Division Bench of this Court and on imposing certain stringent conditions, the vehicle, which was seized and which was involved in smuggling of sand amine, ordered to be released. Obviously, the subsequent order passed by the Division Bench was not brought to the knowledge of the learned Judicial Magistrate.

4 Since the subsequent modification of the order has not been brought to the knowledge of the learned Judicial Magistrate, the petition filed by the petitioner herein has been dismissed on the basis of the original order passed on 24.09.2018. In any event, the learned Magistrate has given liberty to the petitioner herein to file a fresh petition, depending upon the outcome of the final order of the Division Bench in the aforesaid writ petition.

5 This Court is of the considered view that it is open to the petitioner herein to move the Judicial Magistrate concerned by producing the copy of the modified order passed subsequently by the Division bench of this Court in the aforesaid writ petition and seek appropriate orders. Since the learned Magistrate has not been appraised of the subsequent decision, this Court does not think that the present revision case could be entertained, particularly the petitioner has been given liberty to move the Magistrate afresh for return of vehicle.

6 In view of the same, the criminal revision case is dismissed and the petitioner is at liberty to move the Judicial Magistrate concerned with a fresh petition on the basis of the subsequent order passed by the Division Bench of this Court in the aforesaid writ petition.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Chengalpattu.
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police,
Otteri Police Station,
Kancheepuram District.

Crl.R.C.No.1373 of 2018

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srg 22/01/2019



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