



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018

CORAM:

WEB COPY

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.R.C(MD)No.387 of 2018

Udhayakumar : Petitioner/ Petitioner

Vs.

State rep. by
The Inspector of Police,
Vasuthevanallur Police Station,
Tiruenelveli District.
[Crime No.160 of 2016] : Respondent/ Respondent

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records in Cr.M.P.No.5199 of 2017, dated 04.02.2017 in C.C.No.112 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Sivagiri and set-aside the same and return the vehicle bearing Regn.TN-76-Z-9050 to the petitioner.

For Appellant : Mr.M.Veilkaniraju

For Respondent : Mr.A.Robinson,
Government Advocate (Crl. Side).

ORDER

This Criminal Revision Case is filed praying to set aside the order dated 04.02.2017 made in Cr.M.P.No.5199 of 2017 in C.C.No.112 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Sivagiri and return the vehicle bearing Registration No.TN-76-Z-9050 to the petitioner.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) for the respondent police.

3.Accused in C.C.No.112 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Sivagiri is the revision petitioner herein. The tractor with trailer bearing Registration No.TN-76-Z-9050, which was used for illicit mining of sand, is the subject matter of this revision petition. The respondent has seized the above said vehicle while transporting sand illicitly and also arrested the petitioner herein. However, the petitioner approached the Trial Court for temporary custody of the vehicle pending disposal of the trial. The Trial Court has found that the vehicle does not stand in the name of the petitioner and the same stands in



the name of his deceased father. Therefore, without legal heirship certificate as well as consent from the other legal heirs, the Trial Court has rightly declined to entertain the petition. Aggrieved by that, this revision petition is filed.

4. This Court, while concurring with the view expressed by the Trial Court, gives liberty to the petitioner to approach again the Trial Court along with legal heirship certificate and consent letter obtained from the other legal heirs and seek return of the vehicle. If such application is filed with necessary documents, the Trial Court shall consider it and pass appropriate orders, as per the directions given by the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat* reported in AIR 2003 SC 638.

5. With the above observations, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The District Munsif cum Judicial Magistrate,
Sivagiri.

2. The Inspector of Police,
Vasuthevanallur Police Station,
Tiruenelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.M.Veilkaniraju Advocate in SR.No.77852.

SMN

DS/RSK/SAR-2 :24.08.2018: 2P/5C

ORDER MADE IN
Cr1.R.C(MD)No.387 of 2018
09.08.2018