

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM

THE HONOURABLE MR.JUSTICE. V. PARTHIBAN

Crl.RC.No.18 of 2019

E.Suresh

... Petitioner

Vs.

State by

The Inspector of Police,
B6 Magaral Police Station,
Magaral, Kancheepuram District.

Cr.No.205 of 2018

... Respondent

Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records in so far relates to order made in CMP.No. Unnumbered of 2018, dated 14.12.2018 on the file of the Judicial Magistrate-II, Kancheepuram, Kancheepuram District and set aside the same and consequently, directing the respondent police to release the Tipper Lorry bearing Registration No.TN-20-BQ-4019 to the petitioner.

For Petitioner : Mr.C.Prakasam

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

ORDER

The present revision petition has been filed against the order dated 14.12.2018 passed by the learned Judicial Magistrate No.II, Kancheepuram in C.M.P.No.Unnumbered of 2018, rejecting the application filed by the petitioner herein under Section 457 of Cr.P.C seeking return of vehicle, which was involved in the offence under Sections 430, 379 of IPC read with 21 of Mines and Minerals Act and 3(1) of TNPPDL Act.

2.According to the learned Magistrate, the Division Bench of this Court in WP(MD).No.7595 of 2018 (Mahalingam Vs. The secretary of Govt. Public Works Department, Secretariat, Chennai and others), dated 24.09.2018 has made an interim order that no Courts shall entertain any request for return of vehicle, which was involved in illegal sand mining. The Division Bench of this Court had passed the order on 24.09.2018 and on the basis of which the petition filed by the petitioner has been rejected.

3.However, on the day when the learned Judicial Magistrate had passed the order dated 14.12.2018, the Division Bench of this Court has modified its own order and subsequently passed directions on 29.10.2018, in W.P.(MD) Nos.22023 to 22026 of 2018 etc., directing the return of vehicle by imposing certain conditions.

4.Unfortunately, the modified order has not been brought to the notice to the learned Judicial Magistrate, Kancheepuram. In any event, pursuant to the final order in the above said writ petition, the petitioner herein should be given liberty to file a fresh petition.

5.In view of the same, the Criminal Revision Petition stands dismissed with liberty to the petitioner to approach the learned Judicial Magistrate concerned and appraise about the modified order dated 29.10.2018, in W.P.(MD) Nos.22023 to 22026 of 2018 etc., passed by the Division Bench of this Court, in the aforesaid writ petition and seek appropriate remedy. The learned Judicial Magistrate shall consider the petition on merits and in accordance with law and pass suitable orders on such petition being filed by the petitioner herein.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

klt/msk
To

1.The Inspector of Police,
B6 Magaral Police Station,
Magaral, Kancheepuram District.

2.The Judicial Magistrate II,
Kancheepuram.

3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.C.Prakasam, Advocate, S.R.No. 1521

CrI.RC.No.18 of 2019

GN(08/01/2019)