

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.02.2019

CORAM:
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.279 of 2019
&
Crl.M.P.No.3092 of 2019

Periyanayakam

.. Petitioner

Vs.

State Represented through
The Inspector of Police,
Anaikaranchatram Police Station,
Nagappattinam District.

.. Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C., to call for the records pertaining to the impugned order dated 07.02.2019 passed in Crl.M.P.(SR) No.923 of 2019 by the Judicial Magistrate, Sirkali and setaside the same and direct the Respondent to return the Tipper Lorry bearing Registration No. TN-46 - D-3583, Engine No.NDH 325727 and Chassis No.NDE 559189 to the custody of the petitioner.

For Petitioner : Mr.V.Suriya Sankar
For Respondent : Mr.R.Surya Prakash
G.A. (Crl.Side)

O R D E R

The Criminal Revision Case has been filed by the Revision petitioner under Section 397 read with 401 Cr.P.C., to call for the records pertaining to the impugned order dated 07.02.2019 passed in Crl.M.P.(SR) No.923 of 2019 by the Judicial Magistrate, Sirkali and setaside the same and direct the Respondent to return the Tipper Lorry bearing Registration No. TN-46-D-3583, Engine No.NDH 325727 and Chassis No.NDE 559189 to the custody of the petitioner.

2.The learned counsel for the Revision Petitioner would submit that the respondent police filed a case against the Revision Petitioner for the theft of sand in Crime No.327 of 2018 for the alleged offence under Section 379 and 430 IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. Therefore, at the time of investigation, the respondent police seized the Tipper Lorry bearing with the Regn. No.TN-46-D-3583 to the custody of the Court and the said vehicle

is continued to be in the custody of the Police. The charge is not yet completed.

3.The learned counsel for the Revision petitioner would further submit that at this stage, the Revision Petitioner filed a petition under Section 451 and 457 of Cr.P.C. before the Judicial Magistrate, Sirkali for the release of the Tipper Lorry bearing with the Regn. No.TN-46-D-3583. The said petition was returned on the ground by referring the order of the Division Bench in para No.13 (xvi) of the common order dated 29.10.2018, passed in W.P.(MD) Nos.19936 of 2017, 7595 and 21485 of 2018 and WMP (MD) No.7225 of 2018, by the Hon'ble Division Bench of Madurai Bench of Madras High Court, it was held that, 'Any application for release of vehicle etc., can only be filed before the Special Court alone'.

4.Further while clarifying the above order dated 29.10.2018, on 11.01.2019, the Hon'ble Madurai Bench of Madras High Court in W.P.(MD) Nos.22023 to 22026 and batch of Writ Petitions, in para 2 and 4 of the order was pleased to held as, Writ Petitions can be filed before the Hon'ble High Court by invoking Article 226 of the Constitution seeking release of the vehicles as Special Courts are yet to be constituted. Aggrieved by the said order, the Revision Petitioner is before this Court.

5.The learned Government Advocate (Crl. Side) would submit that there is a specific overtact in the F.I.R. Investigation is in preliminary stage. Charge sheet yet to be filed.

6.Heard both sides. Perused the records.

7.Considering the above submissions, since there is specific overtact against the petitioner and investigation is in preliminary stage this Court is not inclined to interfere the order passed in the Petition under Section 451 of Cr.P.C. There is no perversity or infirmity in the order passed by the learned Judicial Magistrate, Sirkalai and there is no merit in this Revision.

8.Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ebsi/kas

To

1.Judicial Magistrate,
Sirkali.

2.The Inspector of Police,
Anaikaranchatram Police Station,
Nagappattinam District.

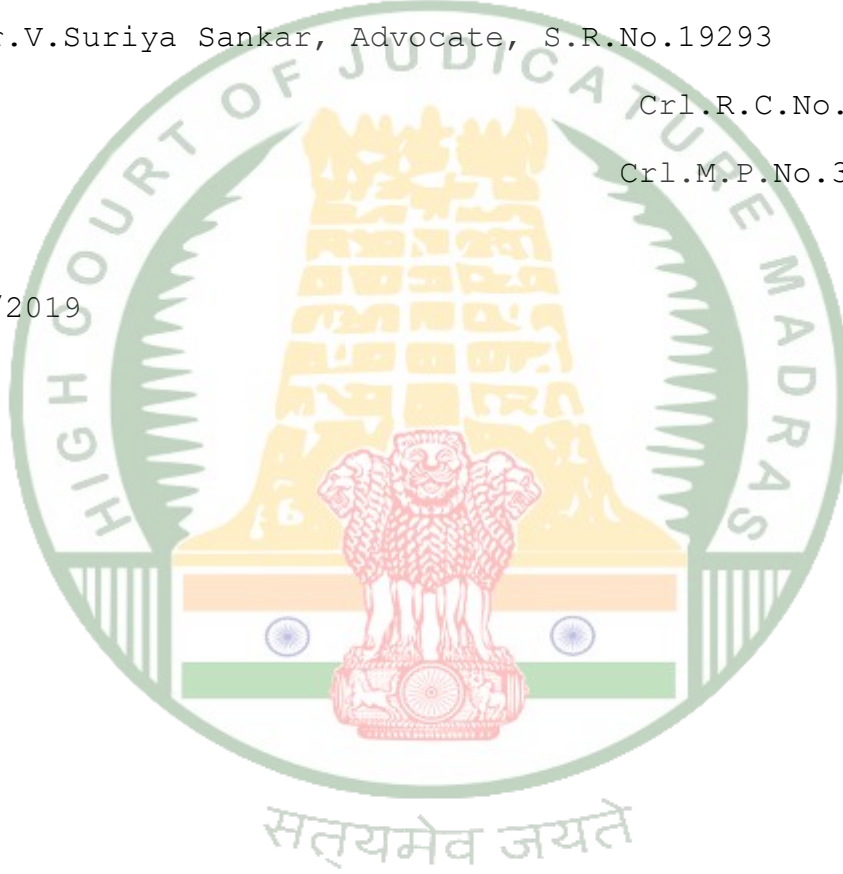
3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+lcc to Mr.V.Suriya Sankar, Advocate, S.R.No.19293

CrI.R.C.No.279 of 2019
&
CrI.M.P.No.3092 of 2019

PM(CO)

rrs 26/03/2019



WEB COPY