

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C.No.622 of 2019

P.Bakkiaseelan
S/o.Pathirappan

.. Petitioner/Owner of the vehicle

-Vs-

State through
The Inspector of Police
V-6, Kolathur Police Station
Chennai.

.. Respondent / Complainant

Criminal Revision Petition filed under section 397 r/w 401 of the Code of Criminal Procedure to call for the records of the learned XIII Metropolitan Magistrate at Egmore, Chennai-600 008 in Crl.M.P.No.3149 of 2019 and set aside the order dated 06.06.2019 and thereby, direct the learned XIII Metropolitan Magistrate at Egmore, Chennai-600 008 for the production of the vehicle "TATA TARUS" Lorry bearing Registration No:TN 18 AD 0765 (Engine No.01C62859861, Chassis No.MAT466401A2D08546) before the Court and return it to the petitioner pending investigation in Crime No.676 of 2019 on the file of the respondent police.

For Petitioner : Mr.R.Ganesh Kumar
For Respondent : Mrs.Kritika Kamal.P
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Petition has been filed to call for the records and set aside the order dated 06.06.2019 passed by the learned XIII Metropolitan Magistrate, Egmore, Chennai-600 008 in Crl.M.P.No.3149 of 2019 and thereby, direct the learned XIII Metropolitan Magistrate at Egmore, Chennai-600 008 for the production of the vehicle "TATA TARUS" Lorry bearing Registration No:TN 18 AD 0765 (Engine No.01C62859861, Chassis No.MAT466401A2D08546) before the Court and return it to the petitioner pending investigation in Crime No.676 of 2019 on the file of the respondent police.

2. The police registered a suo motu FIR in Crime No.676 of 2018 for the offences under Sections 379 IPC and 21(1) of the

Mines and Minerals (Development & Regulation) Act, 1957, for illicit transport of 5 units of sand by a vehicle bearing Registration No.TN-18-AD-0765 belonging to the petitioner/A2.

3. The petitioner filed CrI.MP.No.3149 of 2018 under Section 451 Cr.P.C. which has been dismissed on 06.06.2019 by XIII Metropolitan Magistrate, Egmore, Chennai, on the ground that a Division Bench of this Court has prohibited the Magistrates from exercising the power under Section 451 Cr.P.C. Challenging the said order, the petitioner is before this Court.

4. Heard Mr.R.Ganesh Kumar, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (CrI. Side) for the respondent.

5. It is seen that subsequently, a Division Bench of this Court has modified the earlier order on 29.10.2018, under which, a petition under Section 451 Cr.P.C. can be maintained.

6. In view of the above, this Criminal Revision case is allowed and the order dated 06.06.2019 passed by XIII Metropolitan Magistrate, Egmore, Chennai, in CrI.MP.No.3149 of 2019 is set aside and the matter is remanded back to the trial Court for passing fresh orders bearing in mind the law laid down by the Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat* (2002) 10 SCC 290.

Sd/-
Assistant Registrar (Insp.Cell)

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To

Sub Assistant Registrar

1. XIII Metropolitan Magistrate
Egmore, Chennai.
2. The Inspector of Police
V-6, Kolathur Police Station
Chennai.
3. The Chief Metropolitan Magistrate,
Egmore, Chennai.
4. The Public Prosecutor, High Court, Madras.

+1 cc to Mr.R.Ganesh Kumar, Advocate, S.R.No.60654

CrI.RC.No.622 of 2019

RV(CO)
SSM(18/07/2019)