

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.28522 of 2019

Ponnusamy

...Petitioner

Vs.

The Inspector of Police,
Koradacherry Police Station,
Tiruvarur District.

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to directing the respondent herein to release the Vehicle bearing Registration No.TN 47 AV 9497 to the petitioner within a stipulated period.

For Petitioner : Mr.A.R.Suresh

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

The petitioner seeks for release of the vehicle which is alleged to have been involved in illegal mining of red soil by the Tahsildar, Koothanallur.

2.The Hon'ble Division Bench of this Court, in a decision rendered on 29.10.2018 in the case of Muthu vs. District Collector and others had held that the revenue officials at the time of seizure can issue the memo to the person in-charge of the vehicle indicating the seizure made along with date and time. Such seized vehicle shall be produced before the concerned Magistrate Court by the Revenue Authorities at the time of filing their respective complaint.

3.In the instant case, a perusal of the Tahsildar report, evidences that the vehicle was seized and handed over to the respondent police for safety reasons, who had thereafter registered the case in FIR No.291 of 2019. As such the procedure of handing over to the concerned Jurisdictional Magistrate has been violated. It is also observed in the Hon'ble Division Bench's Judgment in Muthu's case (supra) that the appropriate Court empowered to order release of the seized vehicle is the Special Court. The Government of Tamil Nadu in G.O.Ms.No.298 Dated 13.06.2019 has designated all the

Principal District Judges of the respective Districts to be the Special Court for the purpose of trying offences under the Mines & Minerals (Development & Regulation) Act, 1957.

4.The petitioner herein had filed an application, seeking for return of the vehicle before the Principal District Court, Tiruvarur, which was returned with the endorsement that the case property number assigned by the Jurisdictional Magistrate, requires to be mentioned. Since, the Tahsildar is yet to handover the seized vehicle to the concerned Jurisdictional Magistrate, apparently, the case property number would not have been assigned till date. In this background, this Court is of the view that the Tahsildar should be directed to forthwith handover the vehicle to the concerned Jurisdictional Magistrate for the purpose of registering the case property number.

5.In the light of the above observations, there shall be a direction to the Tahsildar, Koothanallur, to forthwith handover the Ashok Leyland Tipper bearing registration No.TN 47 AV 9497, in any event, within a period of one week from the date of receipt of a copy of this order and on such hand over of the vehicle, the Jurisdictional Magistrate shall endeavor to assign the property number at least on the same day of such handover. Thereafter, the petitioner shall be at liberty to move the concerned Judge seeking for return of the vehicle. Such application shall be dealt with on its own merits and in accordance with law.

6. Accordingly, the Criminal Original Petition is disposed of.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,
Koradacherry Police Station,
Tiruvarur District.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.A.R.Suresh, Advocate sr 96468.

CrI.O.P.No.28522 of 2019

CP (CO)

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SP (22/11/2019)