

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.32846 of 2019

S.Babu

...Petitioner

-Vs-

The Inspector of Police  
B-4, Servapet Police Station  
Thiruvallur District.

.... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the docket order dated 25.11.2019 passed by the learned Judicial Magistrate No.II, Thiruvallur, Thiruvallur District and direct the Judicial Magistrate No.II, Thiruvallur to pass appropriate orders in the application for return of property.

For Petitioner : Mr.N.Sudharsan  
For respondent : Mr.M.Mohamed Riyaz  
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the docket order passed by the Judicial Magistrate No.II, Thiruvallur dated 25.11.2019 and direct the said Magistrate to pass an appropriate order in the application for return of property.

2. The learned counsel for the petitioner has submitted that on 07.09.2019 the respondent police has seized the petitioner's vehicle which was parked in front of his house and registered a case in C.C.No.328 of 2019 under Sections 379 and 430 of IPC. He further submitted that the petitioner has filed an application before the Judicial Magistrate, No.II, Thiruvallur on 12.11.2019 to return the vehicle but the learned Judicial Magistrate without numbering the said petition, has simply returned the petition directing the petitioner to present the same before the Sessions Court, Thiruvallur. He further submitted that since the case was registered under Sections 379 and 430 of IPC, the Magistrate is competent to pass an order to return the vehicle for interim custody and therefore, he requested to direct the concerned Magistrate to entertain the petition and pass an appropriate order.

3. Per contra, the learned Additional Public Prosecutor has submitted that the said vehicle is involved in sand theft.

He further submitted that a Hon'ble Division Bench of this Court in W.P.No.(MD).Nos.19936 of 2017 and 7595 of 2018 has held that any application for release of vehicle, etc., can be filed before Special Court alone. He further submitted that subsequently the Principal District Judge/District Judge are notified as Special Courts to deal with the offences under the Mines and Minerals (Development and Regulation) Act, 1957 and Tamil Nadu Minor and Mineral Concession Rules, 1959, and therefore, the petitioner has to submit his application before the Special Court only.

4. Considering the aforesaid submissions, this Court does not find any merit in this petition. Since the petitioner's vehicle has been seized for the offence said to have been committed for theft of sand, the petitioner has to present the application, for return of the vehicle, only before the Principal Sessions Judge/District Judge concerned. Hence, this petition is liable to be dismissed.

5. Accordingly, this Criminal Original Petition is dismissed. It is open to the petitioner to file a petition before the concerned Special Court, if so advised.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Inspector of Police  
B-4, Servapet Police Station  
Thiruvallur District.

2. The Judicial Magistrate, No.II, Thiruvallur

3.The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.N.Sudharsan , Advocate SR.No. 102880

Crl.O.P.No.32846 of 2019

A.SK(11/12/2019)