

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.No.1444 of 2019

S.Muruganandham

.. Petitioner / Accused

Vs.

State rep. by

1. The Inspector of Police,
Keevalur Police Station,
Nagapattinam District.
Crime No.485/2019 ... Respondent / Complainant
2. The Assistant Director,
Mines and Minerals Department,
Nagapattinam District. ... Respondent / Respondent

* * *

Prayer : Criminal Revision filed under Sections 397 read with Section 401 Cr.P.C. seeking to set aside the order passed in Crl.M.P.No.3545/2019 dated 26.11.2019 on the file of the learned District and Sessions Judge, Nagapattinam and further direct the respondents to return the petitioner's vehicle tractor attached with truck bearing registered FRAMTRAC 45 register No.TN 51 J 9295 seized in crime No.485 of 2019 on the file of the first respondent police.

For Petitioner: Mr.P.Muthamizh Selvakumar

For Respondents : Mr.K. Prabakar,
Addl. Public Prosecutor.

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O R D E R

This criminal revision has been filed seeking to set aside the order dated 26.11.2019 passed by the learned District and Sessions Judge, Nagapattinam in Crl.M.P.No.3545 of 2019.

2. During regular rounds, the first respondent police intercepted a tractor attached with truck vehicle bearing Registration No.TN 51 J 9295 (belonging to the petitioner), illegally involved in sand theft, seized the vehicle and registered a case in Crime No.485 of 2019 on 06.10.2019 under Sections 379 and 430 IPC read with Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957. Seeking return of the vehicle, the petitioner, being the owner filed Crl.M.P.No.3545 of 2019 under Section 451 read with 457 Cr.P.C. before the learned District and Sessions Judge, Nagapattinam and the said petition was dismissed by order dated 26.11.2019, challenging which, the present petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents State.

4. Learned Additional Public Prosecutor submitted that there is no previous case against the petitioner nor this vehicle involved in any other case earlier. Though the reasons given by the trial Court in dismissing the petition cannot be faulted, yet, this Court is of the view that if the vehicle remains in the custody of the police indefinitely, it will get deteriorated.

5. In view of the guidelines given by the Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat* [(2002) 10 SCC 290], this Court is of the view that interest of justice will be served, if the vehicle is ordered to be released to the petitioner on certain stringent conditions. The first respondent police is directed to grant interim custody of the said vehicle bearing Registration No.TN 51 J 9295 to the petitioner within a period of 7 days from the date of compliance of the below mentioned conditions.

- i. the petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the Tahsildar, to the credit of the District Mines and Minerals Foundation trust as non-refundable deposit;
- ii. the petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned District and Sessions Judge, Nagapattinam. The petitioner and the sureties shall

affix their photographs and give the copies of their Aadhaar Card;

iii.the petitioner shall give an undertaking before the first respondent/authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the first respondent and also the trial Court, failing which the first respondent/trial Court is at liberty to confiscate the vehicle;

iv.the petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;

v. the petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;

vi.the petitioner shall surrender the original R.C. book before the learned District and Sessions Judge, Nagapattinam. ;

vii.the petitioner is also directed to participate in the enquiry to be conducted by the respondents.

viii. It is also made clear that after release of the vehicle on complying with the conditions imposed by this court, if the said vehicle is found to be involved in any of the offence, it is always open to the respondents to proceed further for confiscation.

ix.Petition relating to return of R.C. Book for any purpose in the future, may be filed before the learned District and Sessions Judge, Nagapattinam, who may consider the same on merits.

6. This petition is allowed in the above terms.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District and Sessions Judge,
Nagapattinam.

2. The Inspector of Police,
Keevalur Police Station,
Nagapattinam District.

3. The Public Prosecutor,
High Court, Madras.

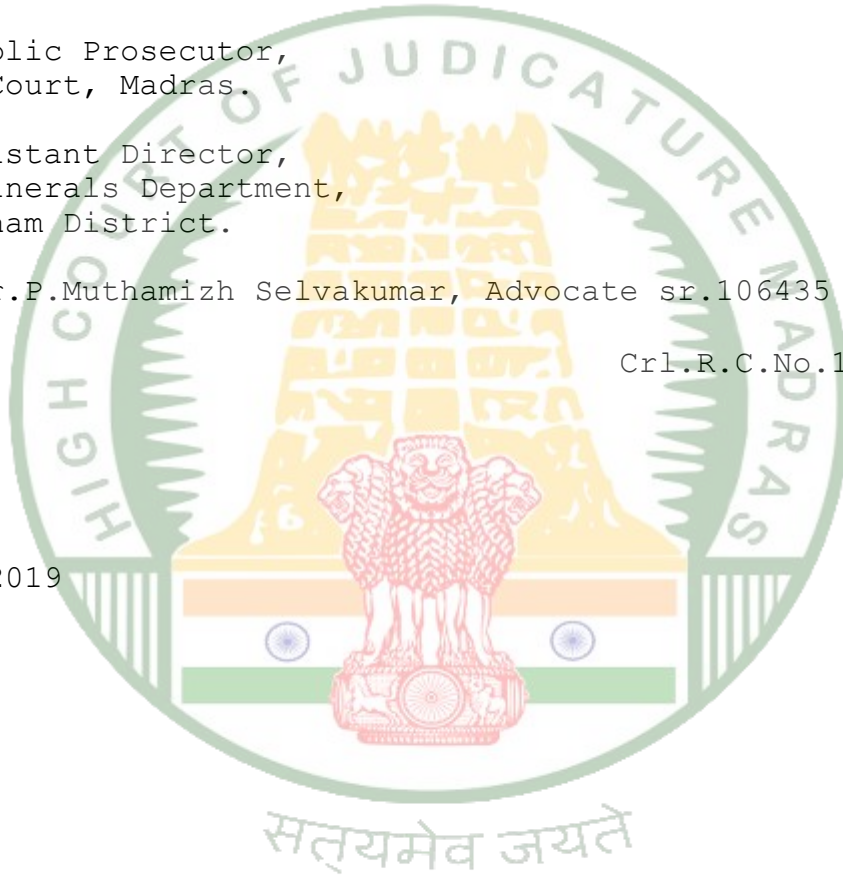
4. The Assistant Director,
Mines & Minerals Department,
Nagapattinam District.

+1cc to Mr.P.Muthamizh Selvakumar, Advocate sr.106435

Crl.R.C.No.1444 of 2019

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nr 27/12/2019



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