

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 20.06.2019****CORAM**

WEB COPY

**THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI****Cr1.RC(MD)No.303 of 2019**

Kannan : Petitioner/Petitioner

Vs.

The Inspector of Police,  
Karaiyur Police Station,  
Pudukottai District.  
(Crime No.26 of 2019)

: Respondent/Respondent

**Prayer:** This Criminal Revision has been filed under Section 392 r/w 401 of Criminal Procedure Code, against the order passed by the District Munsif-cum-Judicial Magistrate, Thirumayam, Pudukottai District, in Cr1.M.P.No.1928 of 2019, dated 16.04.2019 and return the petitioner's vehicle bearing registration No.TN-55-AU-6719 seized by the respondent police in connection with the case in Crime No.26 of 2019.

For Revision Petitioner : Mr.R.Rajesh

For Respondent : Mr.APG Ohm Cairma Prabhu  
Government Advocate  
(Criminal side)

**O R D E R**

The petitioner claims to be the owner of the vehicle (Tractor) bearing Registration No.TN-55-AU-6719 and it was used for carrying construction materials and using the trailer for agriculture purposes. The petitioner came to know that the said vehicle had been seized by the respondent police on 26.03.2019 stating that it had been used for illegal transportation of sand. In this connection, the respondent police registered a case in Crime No.26 of 2019 under Section 379 IPC r/w 2(1) of Mines and Minerals (Development & Regulation) Act and produced the vehicle before the District Munsif-cum-Judicial Magistrate, Thirumayam. Seeking return of the said vehicle, the petitioner filed a petition in Cr.M.P.No.1928 of 2019 before the learned District Munsif-cum-Judicial Magistrate, Thirumayam, for interim custody. The learned Judicial Magistrate, by order, dated 16.04.2019 has dismissed the same. Challenging the said order, the petitioner is before this Court for revision.



2.The learned counsel for the petitioner submitted that learned Judicial Magistrate, Thirumayam has failed to ascertain the claim of the petitioner as only an interim arrangement as to the custody of the vehicle and prays for allowing the revision.

3.The learned Government Advocate (Criminal side) appearing for the respondent/State submitted that the alleged vehicle was seized for the excavation of sand and the alleged vehicle is still in the custody of the concerned court and there is no proceeding pending against the vehicle.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.The only ground upon which the lower court has dismissed the petition is that the alleged vehicle was used continuously for illegal theft of sand. According to the lower court, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Judicial Magistrate is not correct. It is well settled that during the pendency of confiscation proceeding, the vehicle needs to be returned to the person, who is entitled to have. This return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

6.In view of the above, this revision is **allowed** and the order of the learned Judicial Magistrate, Thirumayam, in CrI.M.P.No.1928 of 2019, dated 16.04.2019 is set aside. The learned Judicial Magistrate is directed to return the vehicle to the petitioner on the following conditions:-

**(a)The petitioner shall deposit the original Registration Certificate of the vehicle;**

**(b)The petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen thousand only) to the credit of Crime No.26 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Thirumayam, within a period of two weeks from the date of receipt of a copy of this order;**

**(c)The petitioner shall not make any alteration of the vehicle; and**

**(d)The petitioner shall produce the same before the Court as and when required, until final order is passed in the confiscation proceedings.**

Sd/-

Assistant Registrar(AD-I)

// True Copy //



To,

1. The District Munsif-cum-Judicial Magistrate,  
Thirumayam, Pudukkottai District.

2. do through the Chief Judicial Magistrate,  
Pudukkottai District.

3. The Inspector of Police,  
Karaiyur Police Station,  
Pudukkottai District.

4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1CC TO MR.R.RAJESH, Advocate Sr. No. 70829

Order made in  
Crl.R.C (MD) No.303 of 2019  
20.06.2019

NR(CO)  
TR (04.07.2019) 3P 6C