

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	07.06.2019
Date of Order	17.06.2019

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLICr1.RC(MD)No.305 of 2019

M.Selvam @ Selvaraj

: Petitioner/ Accused No.4

Vs.

The State rep. by
The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
(Crime No.59 of 2019)

: Respondent/Complainant

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 16.04.2019 made in Cr.M.P.No.1479 of 2019 on the file of the Judicial Magistrate No.III, Tirunelveli, in connection with a case in Crime No.59 of 2019.

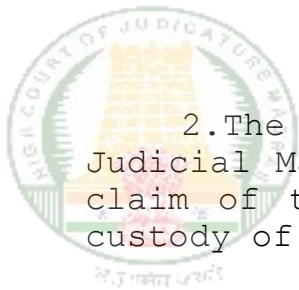
For Revision Petitioner : Mr.I.Pinaygash

For Respondent

: Mr.APG.Ohm.Chairma Prabhu
Government Advocate
(Criminal side)

O R D E R

The petitioner claims to be the owner of the vehicle (JCB) bearing Registration No.TN-69-P-2762. According to the prosecution, the petitioner along with the other accused had entered into the land of the de-facto complainant with JCB and demolished the building and caused damages and also threatened the de-facto complainant with dire consequences. In this connection, the respondent police registered a case in Crime No.59 of 2019, for the offences under Sections 294(b), 427, 506(ii) IPC and Section 3 of TNPPDL Act and seized the JCB. Seeking return of the said vehicle, the petitioner filed a petition in Cr.M.P.No.1479 of 2019 before the learned Judicial Magistrate No.III, Tirunelveli, for interim custody. The learned Magistrate, by order, dated 16.04.2019 has dismissed the same. Challenging the said order, the petitioner is before this Court with this revision.



2.The learned counsel for the petitioner submitted that learned Judicial Magistrate No.III, Tirunelveli has failed to ascertain the claim of the petitioner as only an interim arrangement as to the custody of the vehicle and and prays for allowing the revision.

3.The learned Government Advocate (Criminal side) appearing for the respondent submitted that the alleged vehicle was seized for the demolition of the building belonging to the de-facto complainant and the vehicle is still in the custody of the respondent and prays for dismissal of the criminal revision.

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 petitioner has already used the JCB vehicle for committing similar kind of offence in respect of Crime No.269 of 2018 under Section 3 of TNPPDL Act. According to the lower court, since such proceeding was pending, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned 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 Magistrate No.III, Tirunelveli in CrI.M.P.No.1479 of 2019, dated 16.04.2019 is set aside. The learned 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.59 of 2019 on the file of the Judicial Magistrate No.III, Tirunelveli, 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

/True Copy/



To

1.The Judicial Magistrate No.III,
Tirunelveli.

2.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.

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

+1CC TO Mr.I.Pinaygash, Advocate, Sr No.69014

Order made in
Cr1.R.C (MD) No.305 of 2019
17.06.2019

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