

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Date of Reservation	12.06.2019
Date of Order	17.06.2019

WEB COPY

CORAM**THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI****Cr1.RC(MD)No.328 of 2019**

Maharasi : Petitioner/Petitioner

Vs.

State rep. by its
The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
(Crime No.198 of 2018)

: Respondent/Complainant

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 26.03.2019 made in Cr1.M.P.No.2169 of 2019 on the file of the Judicial Magistrate, Sathankulam.

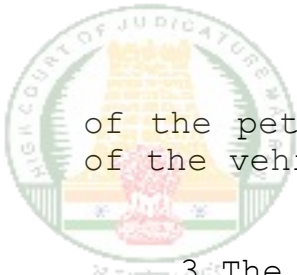
For Revision Petitioner : Mr.R.Ponkarthikeyan

For Respondent : Mr.APG.Omh Chairma Prabhu
Government Advocate
(Criminal side)

O R D E R

The petitioner claims that her husband to be the owner of the vehicle (Mahindra) Tractor bearing Registration No.TN-69-U-3525 and and Trailer bearing Registration No.TN-69-U-3229 and it was used for commercial purpose. The petitioner came to know that the said vehicle had been seized by the respondent police stating that it had been used for illegal Odai sand mining. In this connection, the respondent police registered a case in Crime No.846 of 2017 under Sections 353, 307 and 379 IPC and produced the vehicle before the Judicial Magistrate, Sathankulam. Seeking return of the said vehicle, the petitioner filed a petition in Cr.M.P.No.2169 of 2019 before the learned Judicial Magistrate, Sathankulam, for interim custody. The learned Judicial Magistrate, by order, dated 26.03.2019 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, Sathankulam 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 from Odai 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 for the illegal mining sand from the Odai. 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, Sathankulam, in CrI.M.P.No.2169 of 2019, dated 26.03.2019 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.198 of 2018 on the file of the Judicial Magistrate, Sathankulam 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 (CO)

// True Copy //



To

1. The Judicial Magistrate, Sathankulam.

2. The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

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

+1cc to Mr. R. Ponkarthikeyan, Advocate, SR.No. 69000

Order made in
Crl.R.C (MD) No. 328 of 2019
17.06.2019

ER
KK/SAR I/17.06.2019/3P-5C