



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2019

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.R.C(MD)No.554 of 2019

Francis

... Petitioner/Petitioner

Vs.

The Inspector of Police,
Vadaserry Police Station,
Kanyakumari District,
(In Crime No.37 of 2019)

...Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 & 401 of Criminal Procedure Code, to set aside the condition No.2 relating to the order in Crl.M.P.No.4555 of 2019 dated 07.06.2019 passed by the learned Judicial Magistrate No.II, Nagercoil.

For Petitioner : Mr.R.Russel Raj

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.side)

O R D E R

This Criminal Revision Petition has been filed to set aside the condition No.2 relating to the order in Crl.M.P.No.4555 of 2019 dated 07.06.2019 passed by the learned Judicial Magistrate No.II, Nagercoil.

2.Heard both sides.

3.The learned counsel for the petitioner submitted that on 07.02.2019 the petitioner's vehicle was seized by the respondent police for the alleged transportation of river sand. The respondent has registered a case against him in Crime No.37 of 2019 U/s.379 of IPC. He would further submit that the petitioner has not transported the river sand and only transported 'Sovada Soil'. The petitioner's vehicle was produced before the Judicial Magistrate No.II, Nagercoil in R.P.No.42 of 2019.

4.In these circumstances, the petitioner had filed a petition U/s.451 and 457 Cr.P.C. for interim custody of the vehicle before the learned Judicial Magistrate No.II, Nagercoil and the same was returned. Subsequently, the petitioner resubmitted the above petition before the Magistrate Court stating that the Magistrate Court has jurisdiction to entertain the petition as per



the subsequent order of this Court in W.P(MD)Nos.34672 of 2018 & 34553 of 2019.

5.The learned counsel further submitted that after hearing the matter, the learned Judicial Magistrate allowed the application with some conditions. One of the conditions is that the petitioner should deposit a sum of Rs.50,000/- before the Revenue Divisional Officer and the receipt of the same should be produced before the learned Judicial Magistrate Court. Challenging the conditional order imposed by the trial Court, the petitioner is before this Court with this criminal revision.

7.The Reasons stated by the revision petitioner are convinced.

8.Considering the facts and circumstances of the case, this Criminal Revision stands allowed and the 2nd Condition imposed by the learned Judicial Magistrate No.II, Nagercoil, dated 07.06.2019, is set aside. The 2nd condition is modified to the effect that the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five thousand only) to the credit of Crime No.37 of 2019 on the file of the learned Judicial Magistrate No.II, Nagercoil''. Insofar as the other conditions are concerned, the order of the learned Judicial Magistrate shall remain unaltered.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

vsd
To

- 1.The Judicial Magistrate No.II, Nagercoil.
- 2.The Inspector of Police,
Vadaserry Police Station,
Kanyakumari District,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.R.RUSSEL RAJ, Advocate Sr. No.81009

Cr1.R.C(MD)No.554 of 2019
09.08.2019