



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM

WEB COPY

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

Crl.R.C(MD)No.745 of 2019

Thangam@Thangapandian

...Revision Petitioner

Vs.

State through
The Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar District.
(Crime No.230 of 2019)

...Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.10370 of 2018, dated 17.10.2018 in Crime No.230 of 2018, on the file of the learned Judicial Magistrate, Rajapalayam and set aside the same as illegal and allow this petition.

For Petitioner
For Respondent

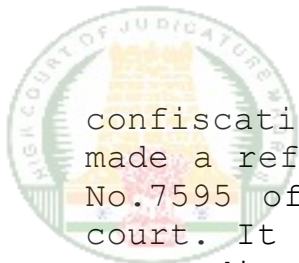
: Mr.P.Sepana@Sree
: Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.side)

O R D E R

The petitioner claims to be the owner of the Tractor along with Trailer, bearing Registration No.TN-67-AM-9128. According to the petitioner, the alleged vehicle was seized by the respondent on 20.06.2018 in connection with a case in Crime No.230 of 2018 for the offence under Section 379 of IPC and 21(1) of Mines and Minerals (Development and Regulations) Act, 1957. Seeking return of the said vehicle, the petitioner filed a petition before the learned Judicial Magistrate, Rajapalayam, for interim custody. The learned Magistrate, by order dated 17.10.2019 has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

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

3.The only ground upon which the lower Court has dismissed the petition is that the confiscation proceedings are pending before the learned Judicial Magistrate, Rajapalayam. The learned Magistrate is directed to take appropriate action for



confiscation. The learned Judicial Magistrate, Rajapalayam also made a reference to the judgment rendered by this Court in W.P(MD) No.7595 of 2018, dated 24.09.2018, the guidelines issued by this court. It is well settled that during the pendency of confiscation proceedings, 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.

4.In view of the above, this Criminal Revision is allowed and the order of the learned Judicial Magistrate, Rajapalayam in Cr.M.P.No.10370 of 2018, dated 17.10.2018, is set aside and the learned Judicial Magistrate, Rajapalayam, is directed to return the vehicle to the petitioner subject to the confiscation proceedings 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.230 of 2018 on the file of the learned Judicial Magistrate, Rajapalayam, within a period of one week from the date of receipt of a copy of this order;

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

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

5.The Authority under the Tamil Nadu Prohibition Act may proceed with the confiscation proceedings and the petitioner shall obey any order that may be passed in the said proceeding by the authority.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Judicial Magistrate,
Rajapalayam.
Rajapalayam.

2.The Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar District.

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

+1 CC to M/S.P.SEPANA@SREE, Advocate (SR-104726[F] dated
12/12/2019)

CrI.R.C(MD)No.745 of 2019
12.12.2019

_KM/ (09.01.2020) 3P 5C