



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 19.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 696 OF 2019

WEB COPY

S.Nachiyappan

... Petitioner/Petitioner

- Vs -

State, rep. by

The Inspector of Police

Alanganallur Police Station

Madurai District.

... Respondent/Respondent

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, calling for the records pertaining to the order dated 16.08.2019, passed by the learned Prl. District cum Sessions Judge, Madurai, in Crl. M.P. No.3086/2019.

For Petitioner : Mr. M.Kaliraj

For Respondents : Ms. M.Anantha Devi, GA (Crl. Side)

ORDER

The present revision has been filed against the dismissal of petition filed u/s 457 and 451 Cr.P.C. for return of the vehicle.

2. When the matter was taken up for hearing, learned counsel appearing for the petitioner produced a copy of the order passed by this Court in Crl. R.C. (MD) No.694 of 2019, dated 12.11.2019, recording the counter filed by the respondent, has directed the Revenue Divisional Officer concerned to decide the issue of release of the vehicle on the facts and circumstances of the case. Prayer is made that a similar order be passed in this case as well.

3. Ms.Anantha Devi, learned Government Advocate (Crl. Side), appearing for the respondent, acknowledged the said submission and stated that similar order be passed herein as well.

4. This Court, in Crl. R.C. (MD) No.694/2019, vide order dated 12.11.2019, in para-2 and 3, observed as under :-

"2. When the matter was taken up for hearing, on behalf of the respondent, a detailed counter affidavit has been filed, wherein in para-5 and 6, it is stated as under :-

"5) I submit that as per the above G.O. Ms. No.63, dated 11.05.2005, since then the authorities have been authorised and are in continuous implementation of controlling the



illegal mining operation and illegal transportation of any kind of mineral in any form. Similarly, in the present case, the Assistant Director, Mines and Minerals Department (Flying Squad), conducted a surprise vehicle check up on 04.07.2019 and found a vehicle bearing TN 22 BM 7479 was carrying vandal sand without any valid permit or any authorization given by the Mines and Minerals Department, which is an offence under Section 36-A of the Tamil Nadu Mines and Minerals Concession Rules, 1959. Hence, the vehicle was seized by the Assistant Director, Mines and Minerals Department on 04.07.2019 and the intimation of such seizure along with the statement given by the driver of the vehicle was sent to the Revenue Divisional Officer on the same date, I.e., 04.07.2019, vide his proceedings ref. No.Na.Ka.No.05/2019, Mines dated 04.07.2019.

6) I submit that once the vehicle is seized by the Mines and Minerals Authorities, the next course of action is an intimation to the Revenue Divisional Officer and the owner of the vehicle is supposed to approach the Revenue Divisional Officer and pay the appropriate fine amount that may be imposed by him and obtain an order for release of the vehicle. Once such release order is passed by the Revenue Divisional Officer, on furnishing the copy of the same it is our duty to release the vehicle. Till then, we are duty bound to keep the seized vehicle in our custody as per the communication given by the Assistant Director, Mines and Minerals Department. We have no other power to proceed further. In case if the respondent police has seized or had found the illegal transportation, then it is our duty to register an First Information Report and produce the vehicle before the concerned jurisdictional Magistrate. The owner of the vehicle will approach under Section 451 of Cr.P.C., seeking interim custody pending the criminal case. The concerned judicial magistrate will pass appropriate orders regarding interim custody."

3. According to the respondent, the procedure that is being adopted by the Mines & Minerals Authorities, is to seize the vehicle, which is involved in the mining offence and hand over the said vehicle to the Revenue Divisional Officer concerned. The owner of the vehicle has to approach the concerned Revenue



Divisional Officer for return of the vehicle. According to the procedure that is stated in the above paragraphs, the Revenue Divisional Officer concerned has the power to release the vehicle on imposition of fine, which he may decide depending on the facts and circumstances of the case."

WEB COPY

4. In view of the above order passed by this Court, this Court finds that no order could be passed in the present revision petition for release of the vehicle. However, the petitioner is directed to approach the Revenue Divisional Officer concerned with suitable application for return of the vehicle by establishing his ownership to the vehicle.

5. Accordingly, the present revision petition is disposed of directing the petitioner to approach the Revenue Divisional Officer concerned by filing appropriate application for return of the vehicle within a period of one week from the date of receipt of a copy of this order and on receipt of such application, the Revenue Divisional Officer concerned shall pass appropriate orders on merits and in accordance with law within a period of one week thereafter.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

GLN

To

1. The Principal District cum Sessions Judge,
Madurai
2. The Inspector of Police
Alanganallur Police Station
Madurai District.
3. The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1 CC to Mr.M. KALIRAJ, Advocate (SR-99877[F] dated 20/11/2019)

CRL. R.C. (MD) NO. 696 OF 2019
19.11.2019