



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **06.12.2019**
CORAM

THE HONOURABLE **MRS. JUSTICE T.KRISHNAVALLI**
Crl.R.C.(MD)No.833 of 2019
and
Crl.M.P.(MD)No.9710 of 2019

B.Latha ... Petitioner/Owner of the Vehicle

Vs.

The State Represented by
The Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram District.
(Crime No.88 of 2019)

... Respondent/Complainant

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 in Cr.M.P.No.2699 of 2019, dated 24.09.2019 on the file of the Principal District and Sessions Court, Ramanathapuram in Crime No.88 of 2019 on the file of the respondent Police and set aside the same as illegal and direct the respondent to release the petitioner's vehicle "Komatsu Hydraulic Excavator (Hitachi), Serial No.N500373, Model No.PC 130-7".

For Petitioner : Mr.I.Pinaygash

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

ORDER

The petitioner claims to be the owner of the Komatsu Hydraulic Excavator (Hitachi), Serial No.N500373, Model No.PC 130-7. According to the petitioner, the alleged vehicle was seized by the respondent on 18.06.2019 in connection with a case in Crime No.88 of 2019 for the offence under Section 21(1) of the Mines and Minerals (Development and Regulations) Act, 1957. Seeking return of the said vehicle, the petitioner filed a petition before the learned Principal District and Sessions Court, Ramanathapuram, for interim custody. The learned Principal District and Sessions Court, Ramanathapuram, by order dated 24.09.2019 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 there is no private complaint and confiscation proceedings is also pending. 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 Principal Sessions Judge, Sivagangai in Cr.M.P.No.2699 of 2019 , dated 24.09.2019, is set aside and the learned Principal District and Sessions Court, Ramanathapuram, 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.88 of 2019 on the file of the learned Principal District and Sessions Court, Ramanathapuram, 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 and 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal District and Sessions Judge,
Ramanathapuram.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram District.

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

+1 CC to Mr.I.PINAYGASH, Advocate (SR-103850[F] dated 06/12/2019)

Cr1.R.C.(MD)No.833 of 2019
06.12.2019

VB(18.12.2019) 3P 5C