



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2019

CORAM

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

Crl.R.C(MD)No.869 of 2019

and

Crl.MP(MD)No.10289 of 2019

Kalidass

... Petitioner/Petitioner
Accused No.1

Vs.

The State Rep through
The Inspector of Police,
Thiruppachethy Police Station,
Sivagangai District.

In Crime No.102 of 2019. ...Respondent/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 dated 06.11.2019 made in Crl.M.P.No.2999 of 2019 passed by the learned Principal Sessions Judge, Sivagangai, and set aside the same consequently direct the learned Principal Sessions Judge, Sivagangai, to release the vehicle TATA ACE bearing Registration No.TN 67 AS 8237 to the petitioner.

For Petitioner : Mr.D.S.Haroon Rassheed

For Respondent : 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 TATA ACE, bearing Registration No.TN 67 AS 8237. According to the petitioner, the alleged vehicle was seized by the respondent on 29.07.2019 in connection with a case in Crime No.102 of 2019 for the offence under Section 379 of IPC r/w 21 (1) Mines and Minerals Act. Seeking return of the said vehicle, the petitioner filed a petition before the learned Principal Sessions Judge, Sivagangai, for interim custody. The learned Principal Sessions Judge, Sivagangai, by order dated 06.11.2019 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 petitioner has used his vehicle for illegally mining sand and if the vehicle is returned to the petitioner, he will indulge in the same activities by using the same vehicle. 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 Crl.M.P.No.2999 of 2019 , dated 06.11.2019, is set aside and the learned Principal Sessions Judge, Sivagangai, 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.25,000/- (Rupees Twenty Five thousand only) to the credit of Crime No.102 of 2019 on the file of the learned Principal Sessions Judge, Sivagangai, 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)



To
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- 1.The Principal Sessions Judge,
Sivagangai.
- 2.The Inspector of Police,
Thiruppachethy Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.S.HAROON RASHEED, Advocate (SR-106049[F] dated
19/12/2019)

**CrI.R.C (MD) No.869 of 2019
and
CrI.MP (MD) No.10289 of 2019
19.12.2019**

KK/SAR/20.12.2019/3P-5C/