



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.929 of 2019

Mohandass : Petitioner/Petitioner/
Owner of the property

Vs.

The State rep. by
The Inspector of Police,
Kalaiyarkovil Police Station,
Sivagangai District.

(Crime No.288 of 2019) : Respondent/Respondent/Complainant

Prayer: This Criminal Revision has been filed under section 397 r/w 401 of Criminal Procedure Code, against the dismissal order, dated 06.11.2019 in Cr1.MP No.2996 of 2019 on the file of the Principal Sessions Judge, Sivagangai.

For Revision Petitioner : Mr.S.Pugalendhi

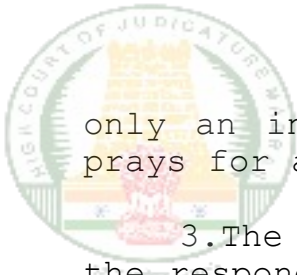
For Respondent : Mr.APG Ohm Chairma Prabhu
Government Advocate
(Criminal side)

ORDER

The petitioner claims to be the owner of the vehicle (Ashok Leyland Tipper Lorry) bearing Registration No.TN-20-AR-1339 and the respondent police registered a case in Crime No.288 of 2019 for the alleged offence under section 379 IPC and section 21(iv) of Mines and Minerals (Development and Regulations Act, 1957 on the basis of the complaint given by the Village Administrative Officer, 32, Kurunthani Variyendhal Group, Kalaiyarkovil Taluk on 17.07.2019 for the illegal transportation of sand. The petitioner, being the lawful owner of the alleged vehicle, filed a petition in Cr.M.P.No.2996 of 2019 on the file of the the Principal Sessions Judge, Sivagangai for interim custody, which was dismissed on 06.11.2019. Challenging the said order, the petitioner is before this Court with this revision.

2.The learned counsel for the petitioner submitted that learned trial Judge has failed to ascertain the claim of the petitioner as

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only an interim arrangement as to the custody of the vehicle and prays for allowing the revision.

3.The learned Government Advocate (Criminal side) appearing for the respondent submitted that the alleged vehicle was seized by the respondent in connection with a case in Crime No.288 of 2019 for the alleged offence under section 379 IPC and section 21(iv) of Mines and Minerals (Development and Regulations) Act, 1957.

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

5.The only ground upon which the lower court has dismissed the petition is that the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Judge is not correct. Further, it is well settled that during the pendency of confiscation proceeding, 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.

6.In view of the above, this criminal revision is **allowed** and the order of the learned Principal Sessions Judge, Sivagangai, in CrI.M.P.No.2996 of 2019, dated 06.11.2019 is set aside. The learned Judge is directed to return the vehicle to the petitioner 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.50,000/- (Rupees Fifty thousand only) to the credit of Crime No.288 of 2019 on the file of the Principal Sessions Judge, Sivagangai, within a period of four weeks from the date of receipt of a copy of this order;

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

(d)The petitioner shall produce the same before the Court as and when required.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)



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To,

1.The Principal Sessions Judge,
Sivagangai.

2.The Inspector of Police,
Kalaiyarkovil Police Station,
Sivagangai District.

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

Order made in
Crl.R.C (MD) No.929 of 2019
20.12.2019

avs (CO)
TR(20.12.2019) 3P 4C