



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

CORAM

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

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Crl.RC(MD)No.956 of 2019

S.Samayamuthu

: Petitioner/Petitioner/
Owner of the Vehicle

Vs.

The Inspector of Police,
Poovanthi Police Station,
Poovanthi,
Sivagangai District.
(In Crime No.102 of 2019)

: Respondent/Respondent/
Complainant

Prayer: This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, against the order, dated 28.11.2019 made in Crl.M.P.No.3311 of 2019 on the file of the Principal Sessions Judge, Sivagangai in crime No.102 of 2019 on the file of the respondent police and set aside the same by allowing the above Criminal Revision Petition and further direct the Respondent Police to return the vehicle bearing registration No.TN 33-BD 1488 Tipper Lorry to the Revision Petitioner.

For Revision Petitioner : Mr.J.Lawrance

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

O R D E R

The petitioner claims to be the owner of the vehicle (Ashok Leyland Tipper Lorry) bearing Registration No.TN-33-BD-1488 and the respondent police registered a case in Crime No.102 of 2019 for the alleged offence under section 21(4) of Mines and Minerals (Development and Regulations) Act, 1957 on the basis of the complaint given by the Village Administrative Officer of No.26 Madappuram Group Village, on 03.10.2019 alleging that the said vehicle was used for transportation of sand illegally without proper licence. The petitioner, being the lawful owner of the alleged vehicle, filed a petition in Cr.M.P.No.3311 of 2019 on the file of the Principal Sessions Judge, Sivagangai for interim custody, which was dismissed on 28.11.2019. 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 only an interim arrangement as to the custody of the vehicle and prays for allowing the revision.

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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.102 of 2019 for the alleged offence under section 21(4) 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 Crl.M.P.No.3311 of 2019, dated 28.11.2019 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.102 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 (RECORD)

// True Copy //

Sub Assistant Registrar (CS-IV)



To

1.The Principal Sessions Judge,
Sivagangai.

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

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

+1 CC to M/s.J.LAWRENCE, Advocate (SR-106443[F] dated 20/12/2019)

Order made in
Crl.R.C (MD) No.956 of 2019
20.12.2019

ER

TK-MS/VR/SAR.4/20.12.2019/3P/5C