

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.03.2020

PRONOUNCED ON : 10.03.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM
CRL.RC.No.233 of 2020

S.Elumalai

... Petitioners/ Petitioner / Accused
Vs.

State by Inspector of Police,
Ponnai Police Station,
Vellore District.
(Crime No.132 of 2019)

... Respondent/ Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C, to call for the records in Crime No.132/2019 on the file of the respondent police and set aside the order passed in Crl.MP.No.4960 dated 05.11.2019 and allow the above Crl.R.C and consequently release the vehicle to the petitioner herein.

For Petitioner : Mr.R.Ramesh
For Respondent : Mr.T.ShunmugaRajeswaran
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed by the accused against the dismissal of his petition filed under Section 451 of Cr.P.C. in Crl.MP.No.4960 of 2019 on the file of the Principal District and Sessions Judge, Vellore dated 05.11.2019.

2. The learned counsel for the petitioner has submitted that the respondent has seized the petitioner's van bearing Regn.No.TN-73-AB-3835 on 17.05.2019 in Crime No.132 of 2019 under Sections 379 and 430 of IPC and produced the same before the Judicial Magistrate No.1, Walajapet and the same was remanded in CP.No.117 of 2019. He further submitted that the petitioner has filed an application under Section 451 of Cr.P.C before the Principal District and Sessions Judge, Vellore (Special Courts constituted under Mines and Minerals Act) seeking interim custody of the said vehicle. He further submitted that the learned Special Judge by the order dated 05.11.2019 has dismissed the said petition stating that the Special Court was constituted as per the G.O (MS)

No.298-HOME (Courts-II) Department dated 13.06.2019, whereas the FIR in the present case was registered on 17.05.2019 and hence, the said petition is not maintainable before the said Court. He further submitted that as per the aforesaid GO, the Courts of the Principal District Judges have been designated as Special Courts under the Mines and Minerals (Development and Regulation) Act, 1957. He further submitted that once, Special Courts are constituted, only the said Courts will have jurisdiction to deal with the applications filed for return of vehicles irrespective of the dates on which the FIRs were registered and therefore, he prayed to set aside the order passed by the Principal District and Sessions Judge, Vellore in CrI.MP.No.4960 of 2019 dated 05.11.2019 and to direct the said court to dispose of the said petition on merits.

3. The learned Government Advocate (CrI.Side) who is appearing for the respondent has fairly conceded that after constitution of Special Courts, only the said courts will have jurisdiction to deal with the applications filed for returning of vehicles irrespective of the dates on which the FIRs were registered.

4. At this juncture, it would be relevant to refer to the decision of the Division Bench of this Court in P.Rajamoorthy Vs. The Revenue Divisional Officer, Mayiladuthurai and Others (WP.No.29154 of 2019) dated 04.10.2019 wherein, the Division Bench in Paragraph No.5 has held as follows:

"It is also brought to the notice of this Court that Designated Courts have already been constituted in compliance of the order passed by this court. The Government Order in G.O.(Ms) No.298, Home (Courts-II) Department, dated 13.06.2019, has been issued, designating the Principal Judge, City Civil Court, Chennai and the Principal District Judges/District Judges in the State of Tamil Nadu to deal with the offences, in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957. If the earlier petitions are dismissed by the Designated Court on the ground of maintainability, the same will not stand in the way of fresh applications being dealt with by the Designated Courts, on merits".

5. From the aforesaid decision of the Division Bench, it is clear that if the earlier petitions are dismissed by the designated Court on the ground of maintainability, the same will not stand in the way of fresh applications being dealt with by the designated courts on merits.

6. The Same Division Bench in S.Mani Vs. The Revenue Inspector of Thevur Circle, Sankari Taluk, Salem District in WP.No.29451 of 2019 dated 23.10.2019 also has reiterated the aforesaid view. In that case also, the Division Bench has held that even if the earlier petitions are dismissed by the designated Court on the ground of maintainability, the same

will not stand in the way of fresh applications being dealt with by the said Court on merits. Therefore, once, the Special Courts are constituted to deal with the offences, under the Mines and Minerals (Development and Regulation) Act, 1957, irrespective of the dates on which the FIRs were registered.

7. For the aforesaid reasons, this Criminal Revision petition is allowed. The order passed by the Principal District and Sessions Judge, Vellore in CrI.MP.No.4960 of 2019 dated 05.11.2019 is set aside. The matter is remitted back to the Court of Principal District and Sessions Judge, Vellore with a direction to restore CrI.MP.No.4960 of 2019 on file and dispose of the same on merits.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Vv
To

1. The Inspector of Police,
Ponnai Police Station,
Vellore District
2. The Principal District and Sessions Judge, Vellore
3. The Public Prosecutor,
Madras High Court,
Chennai.

Copy to
The Section Officer,
Criminal Section,
High Court, Madras

+1cc to Mr.R.Ramesh , Advocate SR.No. 21051

CrI..RC.No.233 of 2020

A.SK(11/03/2020)

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