

IN THE HIGH COURT OF JUDICATURE ATF MADRAS

DATED : 05.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.7426 of 2020

Mahendaran

S/o Viswanathan

.. Petitioner

-vs-

State Rep.by

The Inspector of Police,
Avinankudi Police Station,
Cuddalore Dist (Cr.No.123/2020)

.. Respondent

PRAYER: Petition filed under Section 483 of Cr.P.C., to direct the respondent police to return the Tractor vehicle bearing Registration No.TN31-BD-2238 involved in Cr.No.123 of 2020 on the file of the Respondent police.

For Petitioner : Mr.R. Balamurugan

For Respondents : Mrs. Kiruthiga Kamal
Government Advocate

ORDER

The Criminal Original Petition has been filed to direct the respondent police to return the Tractor vehicle bearing Registration No.TN31-BD-2238 to the Petitioner, involved in Cr.No.123 of 2020 on the file of the Respondent police.

2. It is the contention of the learned counsel for the Petitioner that the Petitioner is not an accused. Whereas tractor has been hired by A2 to take soil from his own land. Whereas the complaint has been filed against the owner of the land and the driver of the tractor on the ground that the soil has been removed without permission from the authority. Hence, it is his contention that he has no knowledge whatsoever with regard to the alleged offence and he has been hired only for the agricultural purpose. Therefore, submitted that if the vehicle is not released vehicle will be exposed vagaries of nature and become valueless. Hence prayed for release of vehicle.

3. Whereas it is the contention of the learned Government Advocate that A1 and A2 removed the soil without permission of the authorities. Though they removed soil from the patta land the sand is mineral and the same will not be removed without any permission from the authorities concerned.

4. There is no dispute that Admittedly the tractor has been seized and the petitioner is not an accused for the offence. The vehicle has been hired by the land owner. Though the mining is prohibited and the illegal mining is still carrying on unabatedly in many places, this Court is of the view as the allegation in the FIR is indicated that the soil has been removed only from the patta land and the petitioner is not an accused except his vehicle has been taken on hire, he has no direct complicity with the offence. In such a view of the matter, the vehicle which was seized by the police is allowed to expose vagaries of nature its value will be diminished. Accordingly, the vehicle is ordered to be released to the Petitioner subject to the following conditions:

1. The Petitioner shall deposit a sum of Rs.30,000/- (Rupees Thirty thousand only) in the District Mineral Resource Foundation Trust, Cuddalore, Cuddalore District. Such of the amount deposited shall be non-refundable.
2. This direction to deposit the amount is made to make the people aware of the consequences and their act of letting their vehicles to carry out sand or mines illegally.
3. On production of the receipt for payment of such amount, the Respondent Police is directed to release the vehicle bearing Registration No. TN 31 - BD 2238, Engine No.523827250373 and Chassis No.923911558572.
4. The Petitioner shall not alter the nature of the vehicle till the trial is concluded and shall produce the vehicle before the trial court as and when required.
5. In the event of non production as directed by the trial Court, the vehicle will be immediately seized by the trial court and shall not be released till the trial and confiscation proceeding are over.

5. With the above direction, the Criminal Original Petition is ordered.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

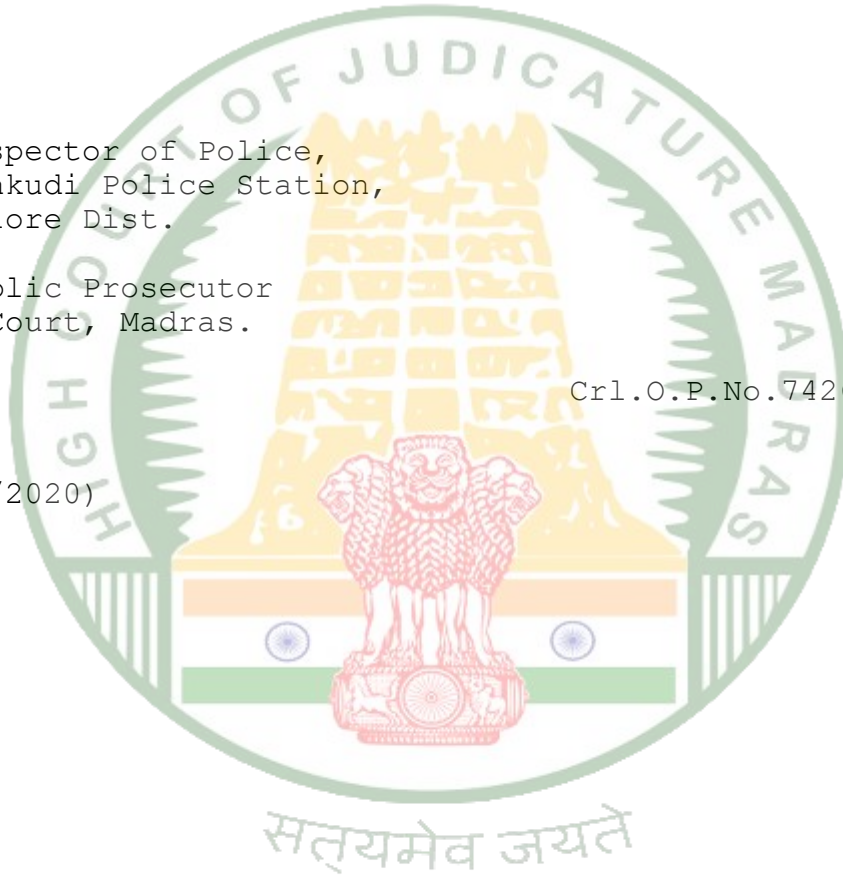
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To

1. The Inspector of Police,
Avinankudi Police Station,
Cuddalore Dist.
2. The Public Prosecutor
High Court, Madras.

Cr1.O.P.No.7426 of 2020

RLD(CO)
GMY(10/06/2020)



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