

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.R.C.No.658 of 2020

R.Vijayakumar ... Petitioner/ Petitioner/Petitioner
owner of the vehicle

Vs.

State represented by
The Inspector of Police,
Kuttalam Police Station,
Nagapattinam District.
(Crime No.176 of 2020)

... Respondent/Respondent/
Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.
seeking to set aside the order dated 23.07.2020 passed in
Crl.M.P.No.1918 of 2020 on the file of the District and Sessions
Court, Nagapattinam.

For Petitioner : Mr.U.Kathiravan

For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(Crl. Side)

सत्यमेव जयते
O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set
aside the order dated 23.07.2020 passed in Crl.M.P.No.1918 of
2020 on the file of the District and Sessions Court,
Nagapattinam.

3. The petitioner is the owner of the vehicle (JCB)
bearing Registration No.TN-31-AE-8338, which was seized on
04.04.2020. Since the petitioner (A1) and two others viz.,
Sundaramoorthy (A2) and Baskar (A3) were taking sand illegally

from an agricultural land, a case was registered in Crime No.176 of 2020 for the offences under Sections 379 and 430 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957. The petitioner filed Crl.M.P.No.1918 of 2020 before the District and Sessions Court, Nagapattinam, under Section 451 Cr.P.C. for interim custody of the vehicle, which was dismissed on 23.07.2020, challenging which, the petitioner has preferred the present revision petition.

4. Heard Mr.U.Kathiravan, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5. In this case, even according to the FIR, the petitioner's vehicle (JCB) was found in the private land and not anywhere near the river bed. That apart, there were no other lorry or tractor found near the petitioner's vehicle (JCB). It is seen that the seizure was effected on 04.04.2020 and the vehicle is in the police station open to sun and rain. Under normal circumstances, this Court would direct the petitioner to deposit money not less than Rs.1,00,000/-, but, in view of the facts and circumstances of the case, interests of justice will be served, if the petitioner is directed to deposit a sum of Rs.25,000/-.

6. Taking into consideration the aforesaid facts and in view of the guidelines given by the Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat*¹, this Court is of the view that interests of justice will be served, if the vehicle is ordered to be released to the petitioner on certain stringent conditions. The respondent police is directed to grant interim custody of the said vehicle (JCB) bearing Registration No.TN-31-AE-8338 to the petitioner within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii) :

- (i) The petitioner shall deposit a sum of Rs.25,000/- before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the Tahsildar, to the credit of the District Mines and Minerals Foundation Trust, Nagapattinam as non-refundable deposit;

- (ii) The petitioner shall execute a personal bond for a
) sum of Rs.25,000/- with two sureties each, for a
 like sum to the satisfaction of the District and
 Sessions Court, Nagapattinam. The petitioner and
 the sureties shall affix their photographs and give
 the copies of their Aadhaar Card;
- (ii) The petitioner shall give an undertaking before the
 i) respondent/ authority concerned stating that he
 will not use the vehicle in question for any
 illegal activities in future and shall produce the
 same as and when required by the respondent and
 also the trial Court, failing which the
 respondent/trial Court is at liberty to confiscate
 the vehicle;
- (iv) The petitioner shall not alienate the vehicle in
) question till the disposal of the proceedings
 before the authority concerned;
- (v) The petitioner shall take photograph of the vehicle
 and submit the same along with Compact Disc duly
 certified under Section 65-B of the Indian Evidence
 Act, 1872;
- (vi) The petitioner shall surrender the original R.C.
) book before the District and Sessions Court,
 Nagapattinam; and
- (vi) The petitioner is also directed to participate in
 i) the enquiry to be conducted by the respondent.

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Petition relating to return of R.C. Book for any purpose in the future, may be filed before the District and Sessions Court, Nagapattinam, who may consider the same on merits, though this order has been passed by the High Court.

This petition is allowed in the above terms and the order dated 23.07.2020 passed in CrI.M.P.No.1918 of 2020 on the file of the District and Sessions Court, Nagapattinam, is set aside.

Sd/-

Assistant Registrar(CCC)

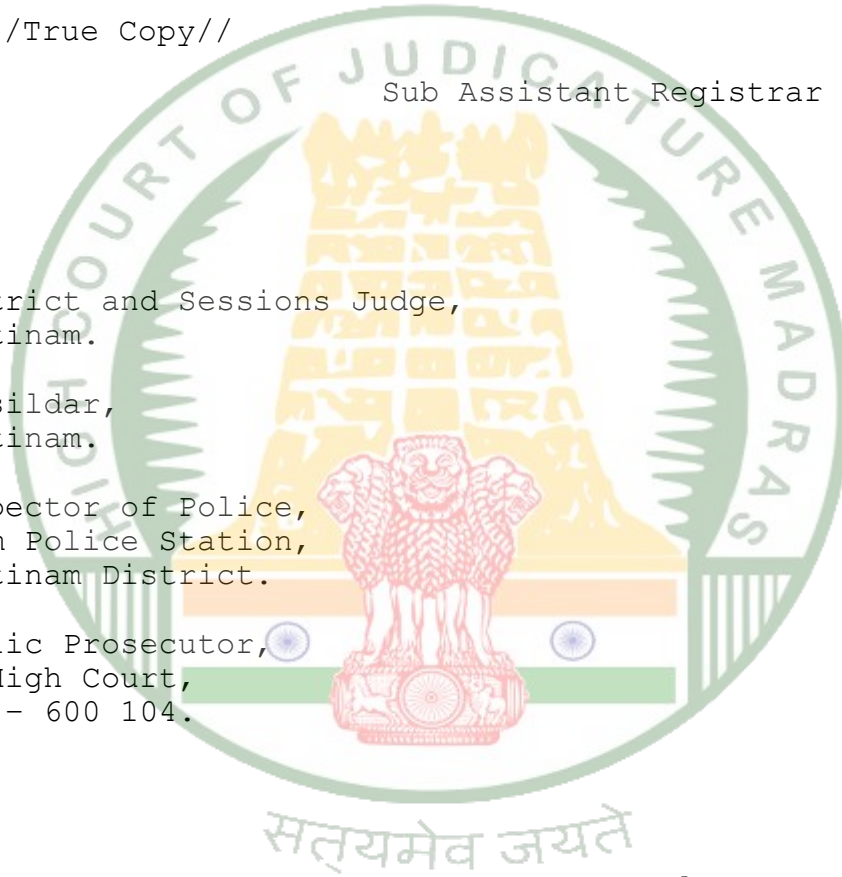
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Sub Assistant Registrar

nsd

To

- 1.The District and Sessions Judge,
Nagapattinam.
- 2.The Tahsildar,
Nagapattinam.
- 3.The Inspector of Police,
Kuttalam Police Station,
Nagapattinam District.
- 4.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.



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srg 07/10/2020