

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.09.2020

CORAM

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

Cr1.R.C.No.670 of 2020

Anbazhagan

... Petitioner/Petitioner

Vs.

The State,
Rep by Inspector of Police,
Tirukuvalai Police Station
Nagapattinam District.
(Crime No.91/2020)

... Respondent/Respondent

Criminal Revision filed under Section 397(1) r/w 401 Cr.P.C. seeking to set aside the order passed by the learned District and Sessions Judge, Nagapattinam dated 15.07.2020 made in Cr.M.P.No.1822/2020 and allow the said petition by ordering return of TAFE Ltd make Tractor bearing Registration No.TN 49 F 4896 and Tipper Trailer with Registration No.TN51 A 4181 to the petitioner.

For Petitioner : Mr.S.Sounthar
For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(Cr1. Side)

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 15.07.2020 passed in Cr.M.P.No.1822 of 2020 on the file of the District and Sessions Court, Nagapattinam.

3. The case of the petitioner is that, JSR Infra Developers Limited is a Government contractor involved in desilting the river Banks and that the petitioner is a private contractor, who is working under them, and on the date of incident i.e., on 09.4.2020, the petitioner's Tractor bearing Registration No.TN 49 F 4896 and Tipper Trailer with Registration No.TN51 A 4181 (TAFE make) were seized by the

respondent-police, alleging that it was involved in illegal transporting of ½ unit of savudu sand and a case was registered in Crime No.91 of 2020 for the offence under Section 379, 430 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957. The petitioner filed Cr.M.P.No.1822 of 2020 before the District and Sessions Judge, Nagapattinam, under Section 451 Cr.P.C. for interim custody of the vehicle, which was dismissed on 15.07.2020, challenging which, the petitioner has preferred the present revision petition.

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

5. It is seen that the seizure was effected on 09.04.2020 and the vehicles were in the police station open to sun and rain.

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* [(2002) 10 SCC 290], this Court is of the view that interests of justice will be served, if the vehicles are ordered to be released to the petitioner on certain stringent conditions. The respondent police is directed to grant interim custody of the said vehicle Tractor bearing Registration No.TN 49 F 4896 and Tipper Trailer with Registration No.TN51 A 4181 (TAFE make) 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.50,000/- 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.50,000/- 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 Principal District and Sessions Court, Nagapattinam and
- (vi) The petitioner is also directed to participate in
i) the enquiry to be conducted by the respondent.

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 15.07.2020 passed in Cr.M.P.No.1822 of 2020 on the file of the District and Sessions Court, Nagapattinam, is set aside.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The District and Sessions Judge,
Nagapattinam.

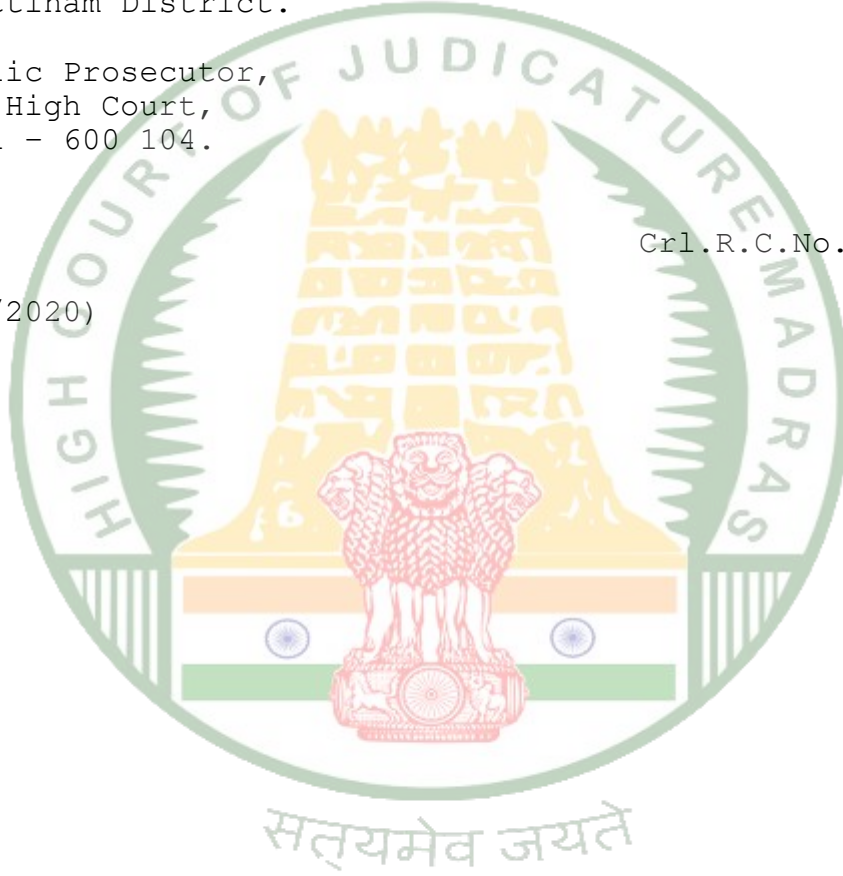
2.The Tahsildar,
Nagapattinam.

3.The Inspector of Police,
Tirukuvalai Police Station
Nagapattinam District.

4.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Cr1.R.C.No.670 of 2020

MP (CO)
RMP (06/10/2020)



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