

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1016 of 2020

Suresh

... Petitioner

Vs.

The State rep by,

1.The Inspector of Police,
Thazhambur Police Station,
Kancheepuram District.
(Crime No.49/2020).

2.Shriram Transport Finance Co.Ltd.,
JB Emerald Complex, 1st Floor,
Kovalam Road, Kelambakkam,
Kancheepuram District 603 103.

... Respondents

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in so far as the condition that "the petitioner directed to deposit a sum of Rs.1,00,000/- before the Tahsildar, Thiruporur and on deposit the said amount has to be deposited by the Tahsildar, Thiruporur to the credit of the District Mines and Minerals Foundation Trust as Non refundable deposit made in Para No.5(2) of the order dated 13.10.2020 passed by the Principal District and Sessions Judge, Kancheepuram District at Chengalpet in Crl.M.P.No.2476 of 2020 in Crime No.49 of 2020 and to quash the same.

For Petitioner : Mr.R.Thirumoorthy

For R1 : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

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ORDER

The petitioner, who is the owner of the vehicle viz., TATA Motors Goods Carrier bearing registration number TN 19 D 9546, which was involved in Crime No.49 of 2020, for offence under Sections 379, 430 of IPC r/w 21(1) of the Mines and Minerals (Regulation and Development) Act, has filed a petition under

Section 451 r/w 457 Cr.P.C., seeking return of vehicle in CrI.M.P.No.2476 of 2020. The learned Principal District and Sessions Judge, Kancheepuram District at Chengalpet, by order dated 13.10.2020, ordered to return the vehicle to the petitioner subject to one of the condition that the petitioner to deposit a sum of Rs.1,00,000/- before the Tahsildar, Thiruporur and on such deposit, the said amount to be deposited by the Tahsildar, Thiruporur to the credit of the District Mines and Minerals Foundation Trust as Non Refundable Deposit, which the petitioner has found to be onerous, hence he filed the present revision.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle TATA Motors Goods Carrier bearing registration number TN 19 D 9546, which was seized in Crime No.49 of 2020 and he is an accused. After seizure, the respondent has kept vehicle in open yard and exposing to sunlight and rain. The learned counsel further submitted that the petitioner was making living by hiring the said vehicle. Further, the vehicle was hypothecated with M/s.Sri Ram Transport Finance Company Limited, Kelambakkam. Due to the seizure of the vehicle, the petitioner is unable to make the monthly EMI and the dues are mounting. As regards the other conditions of the lower Court, the petitioner shall comply, only condition No.5(2) is onerous one.

3.The learned Additional Public Prosecutor appearing for the respondent submitted that the vehicle viz., TATA Motors Goods Carrier bearing registration number TN 19 D 9546 was used for illegal transportation of sand. If the vehicle is returned to the petitioner, he will involve in similar nature of offence. Hence, the condition of Rs.1,00,000/- is not an onerous one.

4.Considering the above facts and circumstances of the case, it is seen that the petitioner had purchased the vehicle by hypothecation from M/s.Sri Ram Transport Finance Company Limited, Kelambakkam and it would be difficult to him to pay such huge amount of Rs.1,00,000/-. The condition imposed on the petitioner to deposit Rs.1,00,000/- is on the higher site. Hence, this Court is inclined to modify the condition No.5(2) imposed by the learned Principal District and Sessions Judge, Kancheepuram District at Chengalpet in CrI.M.P.No.2476 of 2020. The condition No.5(2) is modified to that effect that the petitioner is directed to deposit a sum of Rs.50,000/- before the Tahsildar, Thiruporur and on such deposit, the said amount to be deposited by the Tahsildar, Thiruporur to the credit of the District Mines and Minerals Foundation Trust as Non

Refundable Deposit. The other conditions imposed by the Court below shall stand as it is.

5. With the above modification, this Criminal Revision is disposed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Kancheepuram District at Chengalpet.
2. The Inspector of Police,
Thazhambur Police Station,
Kancheepuram District.
3. The Tahsildar
Thiruporur
4. The Public Prosecutor,
High Court, Madras.

Copy to
The Section Officer
Criminal Section
High Court, Madras

+1 cc to M/s.R.Thirumoorthy Advocate sr37097

सत्यमेव जयते

Cr1.R.C.No.1016 of 2020

bp(co)
aa08/12/2020

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