

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1056 of 2020

Purushothaman
S/o.Subramani

... Petitioner

Vs.

1. State rep.by its
The Inspector of Police,
Baluchettychatram Police Station,
Kancheepuram District.
Crime No.26 of 2020.

2. Kotak Mahindra Bank Ltd.,
No.163, Katpadi Main Road,
Kalinjur, Virthampet, Vellore.
Having Head Office at
M/s.Kotak Mahindra Bank Ltd.,
Old Mahabalipuram Road,
Kandanchavadi, Chennai - 96.

(No relief is sought from the 2nd respondent
Since no-objection letter given before District
and Sessions Court, Kancheepuram at
Chengalpattu (Hence given up)).

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w.
401 of the Code of Criminal Procedure, to set aside the impugned
condition No.2 and condition No.4 made in Crl.M.P.No.2798 of
2020 by order dated 10.11.2020, passed by the District and
Session Judge, Kancheepuram District at Chengalpattu and
consequently return the petitioner vehicle no.TN-73-H-5499
forthwith 2020.

For Petitioner : Mr.P.P.Shanmugasundaram
For Respondents: Mr.C.Raghavan
Government Advocate

O R D E R

The petitioner is the owner of the Tipper lorry bearing
Registration No.TN-73-H-5499, which was seized by the respondent

police on 22.01.2020 in Crime No.26 of 2020 for offence under Sections 4(1), 4(1)(1A), 36(a), 23 C, 21(1) Mines and Minerals (Development & Regulations) Act. By order dated 10.11.2020, the learned Principal District and Sessions Judge / Special Court, Kancheepuram District, Chengalpattu, in Crl.M.P.No.2798 of 2020 had ordered return of vehicle to the petitioner with seven conditions.

2. The petitioner's grievance is that in condition No.2, the petitioner was directed to deposit a sum of Rs.1,00,000/- before the Tahsildar, Kancheepuram, to the credit of the District Mines and Minerals Foundation Trust as Non refundable deposit and under condition No.4, the petitioner was directed to submit the Original R.C. Book of the Goods Carrier Tipper bearing Registration No.TN-73-H-5499 before the Judicial Magistrate No.1, Kancheepuram. With regard to the other conditions, the petitioner submits that he has got no grievance and would abide by the same.

3. The contention of the learned counsel for the petitioner is that the petitioner had filed an anticipatory bail petition before this Court in Crl.O.P.No.2356 of 2020 along with another accused Nagendran. This Court, by order dated 14.02.2020 had imposed certain conditions and one of the conditions is that the petitioner has to deposit a sum of Rs.90,000/- as non refundable deposit to the credit of the concerned District Mineral Foundation Trust. In obedience to the order of this Court, the petitioner had deposited a sum of Rs.90,000/- in Na.Ka.No.615/Q1/2017-1041 dated 23.09.2020 before the Assistant Director, Mines and Minerals, Kancheepuram. The copy of the said receipt is also produced.

4. He further submitted that the vehicle is hypothecated with Kotak Mahindra and the petitioner is eking his livelihood through renting out the lorries and with this amount, he has to pay the monthly EMI to Kotak Mahindra Bank and also make his living. He further submitted that due to the seizure and detention of the vehicle, the insurance and F.C. have elapsed.

5. The learned counsel for the petitioner further submitted that the lower Court failed to consider the deposit of Rs.90,000/- made in Crime No.26/2020, pursuant to the order of this Court in Crl.O.P.No.2356 of 2020. He further produced an invoice issued by S.Traders in proof of transporting 18 tonnes of M-Sand on the date of occurrence. He also submitted that the petitioner's vehicle is a goods vehicle and the Original R.C. book has to be in the vehicle.

6. Learned Government Advocate submitted that in this case admittedly 18 tonnes of M-Sand without any valid permit under

Mines and Minerals Act, were seized and the vehicle was handed over to the respondent police, who registered the case in Crime No.26 of 2020 for various offences under Mines and Minerals Act. He further submitted that the petitioner's payment of Rs.90,000/- is voluntary as could be seen from the order of the High Court. According to the learned Government Advocate, the payment of Rs.90,000/- is pursuant to the anticipatory bail order and as far as return of vehicle, the petitioner may be directed to make deposit in Mines and Minerals Trust Account.

7. Considering the submission and perusal of the materials, it is seen that the petitioner while obtaining anticipatory bail, had volunteered to deposit Rs.90,000/- in the trust account in the District Mines and Minerals Foundation Trust account and he also made a payment on 23.09.2020, the copy of the receipt is produced. Further, in this case, the transportation is of M-sand, which is in violation of Mines and Minerals Act. It is also seen that the vehicle is hypothecated with Kotak Mahindra. Further, the vehicle fitness and the insurance have elapsed. The petitioner is making a livelihood using this vehicle.

8. Considering the same, this Court is inclined to modify condition No.2 order dated 10.11.2020 in CrI.M.P.No.2798 of 2020 directing the petitioner to deposit Rs.25,000/- instead of Rs.1,00,000/-. As regards condition no.4 in the said order, the petitioner has to produce the R.C. Book and relevant documents to prove his ownership and the Lower Court, on perusal of the R.C. Book and other records, retain a photostat copy of the same and shall return the original documents to the revision petitioner and allow use of the vehicle.

9. Accordingly, this Criminal Revision Petition is allowed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,
Baluchettychatram Police Station,
Kancheepuram District

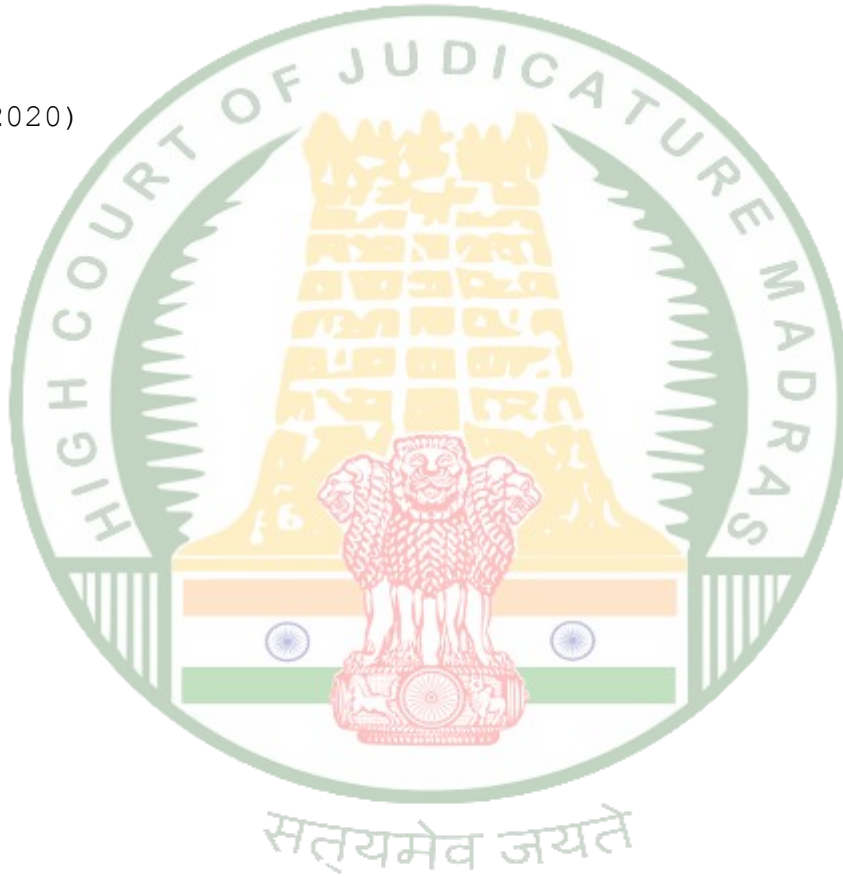
2.The Public Prosecutor,
High Court, Madras.

3.The District and Session Judge
Kancheepuram District @ Chengalpattu

+1 CC to Mr.P.P.Shanmugasundaram, Advocate sr 37869.

Cr1.R.C.No.1056 of 2020

PA(CO)
SP(01/12/2020)



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