



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.08.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.41 of 2020

Mohammed Kani

.. Petitioner

Vs.

State represented by
The Forest Officer,
Mandapam Range,
Mandapam,
Ramanathapuram District.
WLOR No.14/2019

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., against the order dated 11.11.2019 passed in Cr.M.P.No.2653 of 2019 on the file of the District Munsif cum Judicial Magistrate, Rameswaram.

For Petitioner	: Mr.K.Gokul
For Respondent	: Mrs.Anandha Devi Government Advocate

O R D E R

This revision has been filed against the order dated 11.11.2019 passed in Cr.M.P.No.2653 of 2019 on the file of the District Munsif cum Judicial Magistrate, Rameswaram.

2. The case against the petitioner is that on 01.09.2019, on the basis of some secret information, the Indian Coastal Guard conducted patrol duty at the Mandapam North Coastal region, in a Boat and they stopped a boat bearing Registration No. IND TN 11 MM 158 at 5 nautical mile away from North Jetty and they found banned wild animals viz., Sea Cucumbur (Kadal Attai) in three plastic Cans with a total quantity of 100 Kg and subsequently, the Forest Range Officer, registered a case and seized the Sea Cucumbur and the Boat.

3. On the side of the petitioner, it is stated that the Boat is in the custody of the respondent and if the Boat is kept in a open place, it will be damaged due to the climatic conditions and the petitioner cannot go for fishing and hence, he prayed for return of the Boat.

4. On the side of the prosecution, it is stated that as per Section 39 (1) d of the Wild Life Protection Act, the vehicle, vessels weapon trap or tool that has been used for committing an offence and has been seized under the provisions of this Act, shall be the property of the State Government and where such animals is hunted in a sanctuary or national part declared by the Central



Government, such animal or any vehicle, vessel, weapon, trap or tool used in such hunting shall be the property of the Central Government and that if the vessel is handed over to the petitioner, there is every possibility to involve the vehicle again for similar illegal activity and hence prayed the petition to be dismissed.

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5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. It is seen that there is no dispute regarding the ownership of the Boat. Confiscation order is not yet passed by the concerned Department or by the Court. If the Boat is kept in the open place it may be damaged.

7. In the above circumstances, this Court is inclined to allow the Revision. Accordingly, this Criminal Revision Case is allowed and the order dated 11.11.2019 passed in Cr.M.P.No.2653 of 2019 on the file of the District Munsif cum Judicial Magistrate, Rameswaram, is set aside and the property/Boat is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(i) The petitioner shall deposit the original Registration Certificate of the Boat before the District Munsif cum Judicial Magistrate, Rameswaram;

(ii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of WLOR No.14/2019 on the file of the learned District Munsif cum Judicial Magistrate, Rameswaram, within a period of four weeks from the date of receipt of a copy of this order along with a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a like sum;

(iii) The petitioner shall not alienate and shall not make any alterations in the vehicle / Boat;

(iv) The petitioner shall produce the vehicle / Boat before the Court and before the respondent as and when required, by the Court and by the respondent.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Munsif cum Judicial Magistrate,
Rameswaram.
2. The Forest Officer,
Mandapam Range,
Mandapam,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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VB (21.08.2020) 3P 4C