



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.R.C(MD)No.174 of 2020

G.Ramesh

... Petitioner/Petitioner

Vs.

The Sub Inspector of Police,
Krishnan Koil Police Station,
Virudhunagar District.
(Crime No.215 of 2018)

... Respondent/Respondent

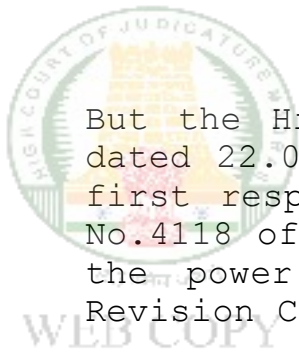
Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.5873 of 2019, dated 02.11.2019 on the file of the Judicial Magistrate No.II, Srivilliputhur and set aside it and consequently pass order returning the TN-49-W-1974 SWARAJ-735 Tractor and its Trailer.

For Petitioner	: Mr.K.K.Samy
For Respondent	: Mr.A.P.G.Ohm Chairma Prabhu
	Government Advocate (Cr1.side)

O R D E R

This petition is filed to set aside the order passed in Cr.M.P.No.5873 of 2019, dated 02.11.2019 on the file of the learned Judicial Magistrate No.II, Srivilliputhur.

2.The learned counsel for the petitioner submitted that the petitioner is the bonafied purchaser of the vehicle bearing Registration No.TN-49-W-1974 SWARAJ-735 Tractor and its Trailer and a case under Section 379 of IPC r/w 21(4) of Mines and Minerals Act, was registered as against the petitioner and the vehicle was seized by the 2nd respondent and the vehicle was kept in the police custody. The petitioner has filed a Writ Petition in W.P(MD)No.7595 of 2018 before this Court for releasing the vehicle and it was allowed and on the basis of the order passed in the above Writ Petition the petitioner has filed a petition before the trial Court for returning for the above vehicle. But the trial Court has dismissed the petition by stating that the trial Court has no power to return the vehicle due to bond of subject to jurisdiction and the respondent police failed to handover the vehicle to the petitioner. The learned Judicial Magistrate No.II till 02.03.2019.



But the High court passed the order in W.P.(MD)No.4118 of 2019, dated 22.02.2019 and hence the jurisdiction is vested only to the first respondent on the date of order of High Court in W.P.(MD) No.4118 of 2019 and hence the learned Judicial Magistrate only has the power to return the vehicle and prays that the Criminal Revision Case may be allowed.

3.On the other hand on the respondent side it is argued that since Special Courts are constituted for the offence under the Mines and Minerals Act and hence the petitioner has right to file a petition for return of vehicle only before the Special Court and the trial Court has correctly passed the order to get the return of vehicle from the Special Court prays that the Criminal Revision may be dismissed.

4.In this case, the petitioner already filed a petition for return of vehicle before the High Court in W.P.(MD)No.4118 of 2019 and the Writ Petition was allowed with some condition. Then the petitioner has filed a petition before the learned Judicial Magistrate for return of the vehicle. But the trial Court has dismissed the petition stating that the Special Court for the offences relating to Mines and Minerals Act were constituted and dismissed the petition filed by the petitioner by directing the petitioner to file a petition for return of vehicle before the above Special Court.

5.In W.P(MD)No.19936 of 2017, this Court ordered that Special Court for Mines and Minerals were constituted and for return of vehicle the petitioner has to file a petition before the Special Court. Further the Writ petition in W.P(MD)No.4118 of 2019 the order was passed on 22.02.2019. At that time the Special Court was not constituted. Hence, the petitioner has to file a petition for return of vehicle only before the trial Court. Hence, the trial Court has rightly dismissed the petition stating that the trial Court has no subjective jurisdiction. Hence, it is not necessary to interfere into the orders passed by the trial Court.

6.Accordingly, this Criminal Revision Case is disposed of with liberty to the petitioner to file a petition before the concerned Special Court for the return of the vehicle.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar(CS)



To

1.The Judicial Magistrate No.II,
Srivilliputhur.

2.The Sub Inspector of Police,
Krishnan Koil Police Station,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.K.SAMY, Advocate (SR-10426[F] dated 06/03/2020)

Crl.R.C(MD)No.174 of 2020

MA(CO)

TR(06.03.2020) 3P 5C