



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **26.02.2020**
CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**
Cr1.R.C(MD)No.162 of 2020

WEB COPY

Kumar

...Petitioner/Petitioner

Vs.

The Inspector of Police,
Manamadurai Police Station,
Manamadurai.

(Crime No.390 of 2019)

... Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order passed by the Principal Sessions Judge, Sivagangai in Cr.M.P.No.3510 of 2019, dated 06.12.2019 and direct the respondent police to release the vehicle (JCB bearing Registration No.TN-63-AP-7652).

For Petitioner

: Mr.RM.Arun Swaminathan

For Respondent

: Mr.A.P.Ohm Chairma Prabhu

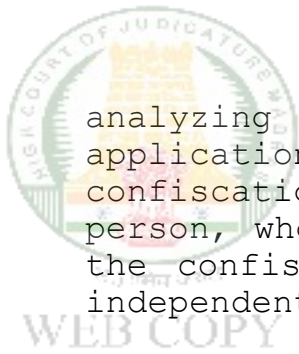
Government Advocate (Cr1.side)

O R D E R

The petitioner claims to be the owner of the JCB, bearing Registration No.TN-63-AP-7652. According to the petitioner, the alleged vehicle was seized by the Village Administrative Officer on 20.10.2019 and handed over to the respondent police. The respondent police registered a case in Crime No.390 of 2019 for the offence under Section 379 of IPC and 21(1) of Mines and Minerals (Development & Regulation) Act, 1957. Seeking return of the said vehicle, the petitioner has filed a petition before the learned Principal Sessions Judge, Sivagangai, for interim custody. The learned Principal Sessions Judge, Sivagangai, by order dated 06.12.2019 has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

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

3.The grievance of the petitioner is that as per the General Clauses Act, the Special Court can exercise all the powers of Magistrate, so the Special Court can entertain the petition under Sections 451 and 457 of Cr.P.C. But, the special Court without



analyzing the G.O on which it was constituted, has rejected the application. It is well settled that during the pendency of confiscation proceedings, the vehicle needs to be returned to the person, who is entitled to have. This return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

4.In view of the above, this Criminal Revision is allowed and the order of the learned Principal Sessions Judge, Sivagangai, in Crl.M.P.No.3510 of 2019, dated 06.12.2019, is set aside and the learned Principal Sessions Judge, Sivagangai, is directed to return the vehicle to the petitioner subject to the confiscation proceedings on the following conditions:-

(a)The petitioner shall produce the original Registration Certificate of the vehicle;

(b)The petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy five thousand only) to the credit of Crime No.390 of 2019 on the file of the learned Principal Sessions Judge, Sivagangai, within a period of one week from the date of receipt of a copy of this order;

(c)The petitioner shall not make any alteration of the vehicle;

(d)The petitioner shall produce the same before the Court as and when required until final order is passed in the confiscation proceedings.

5.The Authority under the Tamil Nadu Prohibition Act may proceed with the confiscation proceedings and the petitioner shall obey any order that may be passed in the said proceeding by the authority.

Sd/-

Assistant Registrar (Crl Side)

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/ /2020

Sub Assistant Registrar(CS)

vsd

To

1.The Principal Sessions Judge,
Sivagangai.

2.The Inspector of Police,
Manamadurai Police Station,

<https://hcservices.mca.gov.in/hcservices/>



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

+1 CC to M/s.RM.ARUN SWAMINARTHAN, Advocate (SR-8304[F] dated
26/02/2020)

Crl.R.C(MD)No.162 of 2020

KK/27.02.2020/3P-5C

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