



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C. (MD)No.374 of 2020

S.Selvaraj

... Petitioner / Petitioner /
Owner of the Vehicle

-vs-

1.The Inspector of Police,
Mandalamanickam Police Station,
Ramanathapuram District
(Crme No.44 of 2019),

2.The Revenue Divisional Officer,
Paramakudi

3.The Assistant Director,
Tamil Nadu Mines and Minerals,
Ramanathapuram,

4.The Tahsildar,
Kamuthi

...Respondents / Complainants

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the Condition No.2 alone ie., the petitioner was directed to deposit the sum of Rs.1,00,000/- to the District Mineral Foundation Trust, Ramanathapuram, as per the orders passed by the Principal District Judge, Ramanathapuram, vide Crl.M.P.No.377 of 2020, dated 18.03.2020.

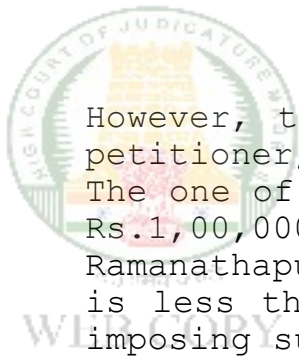
For Petitioners : Mr.P.Murughadasan
For Respondent : Mr.K.Suymbulinga Bharathi
Govt.Advocate (crl.side)

ORDER

This Revision has been filed praying to set aside the Condition No.2 alone, in the order passed by the learned Principal District Judge, Ramanathapuram, ie., directing the petitioner to deposit a sum of Rs.1,00,000/-, to the District Mineral Foundation Trust, Ramanathapuram, vide Crl.M.P.No.377 of 2020.

2. The case of the prosecution is that the vehicle viz., Lorry, bearing Registration No.TN-38-AE-2067, was seized by the first respondent Police, for carrying of sand, without proper permit. Hence, the complaint.

3. Mr.P.Murughadasan, the learned counsel appearing for the Petitioner would submit that the petitioner is the owner of the vehicle in question, which is worth about less than Rs.5,00,000/-.



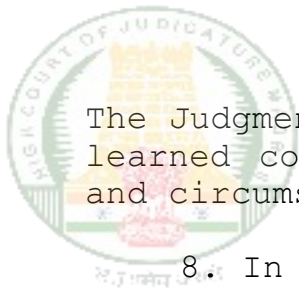
However, the trial Court, while allowing the petition filed by the petitioner, for releasing the vehicle, imposed certain conditions. The one of the condition is, "the petitioner shall deposit a sum of Rs.1,00,000/- to the credit of District Mineral Foundation Trust, Ramanathapuram", which is onerous one, as the cost of vehicle itself is less than Rs.5,00,000/- and that there was no justification for imposing such an onerous condition. He would further submit that of course, the Court could impose certain conditions at the time of passing orders, but it should not be onerous. The learned counsel, in support of his contentions, relied on the decision of an unreported Judgment of this Court in ***Rajasekar Vs. Inspector of Police, Ilanchembur Police Station, Ramanathapuram District***, dated 27.02.2020. Hence, the learned counsel prayed for setting aside the one of the condition imposed by the Court below.

4. Mr.K.Suymbulinga Bharathi, the learned Government Advocate (crl.side) appearing for the State, on instructions, would submit that in similar circumstances, the Division Bench of this Court had issued direction to the trial Court not to release any vehicles, which involved illegal transportation of sand, but contrary to the directions, the trial Court by imposing certain conditions allowed the petition filed by the petitioner for release of vehicle, which involved in sand mining. Hence, the learned Government Advocate (crl.side) prays for dismissal of the Revision.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. On perusal of the records it is seen that the petitioner's vehicle involved for illegal transposition of sand, for which, the law enforcing agency confiscated the vehicle, registered criminal case against the petitioner, and thereafter, the petitioner filed a Petition under Section 451 of Criminal Procedure Code, before the learned Principal District Judge, Ramanathapuram, seeking for the relief of return of vehicle, viz., Tipper Lorry, bearing Reg.No.TN-38-AE-2067, and the Magistrate allowed the petition, by imposing certain conditions. The one of the condition is that, "the petitioner shall deposit a sum of Rs.1,00,000/- to the credit of District Mineral Foundation Trust, Ramanathapuram", Against which, the present Revision is filed.

7. No doubt, the exercise of discretion should be judicious. The Court has power to direct the petitioner to deposit certain amount, taking note of the facts and circumstances of each case. In this case, the exercise of discretion of the Court is properly made and the amount of ordering to deposit Rs.1,00,000/- is not a onerous one, as the sum equal to about one-fifth of the present condition of the vehicle's costs and hence, no real hardship upon the petitioner and the order of the Court imposing such a condition need not be interfered with and hence, the Revision is liable to be dismissed.



The Judgment in (***Rajasekar Vs. Inspector of Police***) relied on by the learned counsel for the petitioner is not applicable to the facts and circumstances of the present case.

8. In the result, this Criminal Revision stands dismissed.

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Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

1.The Principal District judge,
Ramanathapuram.

2.The Inspector of Police,
Mandalamanickam Police Station,
Ramanathapuram District
(Crme No.44 of 2019),

3.The Revenue Divisional Officer,
Paramakudi

4.The Assistant Director,
Tamil Nadu Mines and Minerals,
Ramanathapuram,

5.The Tahsildar,
Kamuthi

6.The distirct mineral foundation trust,
Ramanathapuram

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

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