



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 20.08.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.438 of 2020

WEB COPY
Arumugam

.. Petitioner

Vs.

The State rep.
The Inspector of Police,
Town Police Station,
Pudukkottai,
Pudukkottai District.
(Crime No.129 of 2020)

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records and set aside the impugned order dated 13.07.2020 made in Crl.M.P.No.1486 of 2020 on the file of the learned Judicial Magistrate No.1, Pudukkottai and allow the above Criminal Revision.

For Petitioner : Mr.B.Jameel Arasu

For Respondent : Mrs.Anandha Devi
Government Advocate

ORDER

This revision has been filed to call for the records and set aside the impugned order dated 13.07.2020 made in Crl.M.P.No.1486 of 2020 on the file of the learned Judicial Magistrate No.1, Pudukkottai.

2. On the side of the petitioner, it is stated that the respondent police registered a case in Crime No.129 of 2020 under Sections 273, 328 of IPC r/w. Sections 4, 7, 20 (1) of COTPA Act, 2009. It is stated that the vehicle /Omni van bearing Registration No.TN-55-AR-7560 was seized by the Police and 2840 kgs of tobacco was found in the vehicle. The vehicle was produced before the learned Judicial Magistrate No.I, Pudukkottai in R.P.No.85/2020. The petitioner filed the petition in Crl.M.P.No.1486 of 2020 for interim custody of the vehicle and the petition was dismissed by the learned Judicial Magistrate No.I, Pudukkottai and the petitioner preferred this revision.

3. On the side of the petitioner, it is stated that the petitioner is the owner of the vehicle. The petitioner is not the accused in this case. The vehicle is kept in Police station for the past 120 days exposing it to sun and rain and the value of the lorry is deteriorating. The completion of the trial will take a long



time. It will cause financial hardship to the petitioner and prayed the petition to be allowed.

4. On the side of the prosecution, it is stated that on 18.03.2020, when the respondent police was patrolling, the petitioner was illegally transporting 2840 kgs of tobacco products in the petition mentioned vehicle. The petitioner confessed that he and three others were dealing with tobacco products and trafficked it in the market and hence, the case was registered against the petitioner. The case was under investigation. If the vehicle is released on interim custody, there is possibility for the vehicle being used for the same offence again and prayed the petition to be dismissed.

5. The learned counsel for the respondent placed reliance on the judgement passed by the Hon'ble Apex Court in the case of ***Sundarbhai Ambalal Desai v. State of Gujarat*** reported in ***CDJ 2003 SC 61:2002(10) SCC 283***.

6. Heard the learned counsel on either side and perused the material available on record.

7. Copy of the R.C. book was produced before this Court. It is seen that the petitioner is the owner of the vehicle / Maruthi Omni Van. There is no dispute regarding the ownership of the vehicle. If the vehicle is kept in the open place, the value of the vehicle will be deteriorating due to climatic conditions. Hence, this Court is inclined to allow the petition.

8. Accordingly, this Criminal Revision Case is allowed and the order passed by the learned Judicial Magistrate No.1, Pudukkottai, in Crl.M.P.No.1486 of 2020, dated 13.07.2020, is set aside and the vehicle / Maruthi Omni Van 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 vehicle before the Judicial Magistrate No.1, Pudukkottai;

(ii) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.129 of 2020 on the file of the learned Judicial Magistrate No.1, Pudukkottai, 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.2,00,000/- (Rupees Two Lakhs only) with two sureties for a like sum;



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

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

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Judicial Magistrate No.1,
Pudukkottai.
- 2.The Inspector of Police,
Town Police Station,
Pudukkottai,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SPU (31.08.2020) 3P 4C