



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2020

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.492 of 2020

Muniyandi

.. Petitioner /Owner of the vehicle

Vs.

The Inspector of Police
Poovanthi Police Station,
Sivagangai District.
Cr.No.112 of 2018

.. Respondent /Complainant

Prayer : This Revision Case is filed under Section 397 read with Section 401 of Cr.P.C., to set aside the order dated 24.07.2020 made in Crl.M.P.No.1934 of 2020 on the file of the learned Principal Sessions Judge, Sivagangai and allow the above revision petition.

For Petitioner : Mr.V.Malaiyendran

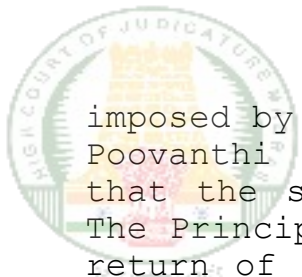
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate

ORDER

This revision has been filed to set aside the order dated 24.07.2020 made in Crl.M.P.No.1934 of 2020 on the file of the learned Principal Sessions Judge, Sivagangai.

2.The lorry bearing Registration No.TN-63K-5724 was seized by the Poovanthi Police in Crime No.112 of 2018, under Section 379 I.P.C. and Section 21(4) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 3(1) of TNPPDL Act. The petitioner filed a petition for return of the vehicle before the Principal Sessions Judge, Sivagangai, in Crl.M.P.No.1934 of 2020. The Principal Sessions Judge, Sivagangai, dismissed the petition on 24.07.2020. Against that order, the petitioner preferred this Revision.

3. On the side of the petitioner, it is stated that the vehicle was actually seized in Crime No.70 of 2019 of Poovanthi Police Station and the petitioner got an order from this Court in Crl.R.C.(MD)No.23 of 2020, dated 23.01.2020 for return of the vehicle for interim custody. The petitioner complied the condition



imposed by this Court, on 06.02.2020. But, the Inspector of Police, Poovanthi Police Station, refused to release the vehicle stating that the same was involved in another crime in Crime No.112/2020. The Principal Sessions Judge, Sivagangai, dismissed the petition for return of the vehicle. For the past eight months, the vehicle was kept in the open place. Leaving the vehicle in the open place, will make the vehicle useless and the value will be deteriorating day by day and prayed the vehicle to be returned to the petitioner.

4. On the side of the prosecution, it is stated that the same vehicle was used in commission of two criminal cases. It reveals that the petitioner is using the vehicle for committing similar offences. If the vehicle is returned to the petitioner, there is every possibility to involve the vehicle again for similar illegal activities. In this regard, the learned Government Advocate relied on the judgment of this Court published in **CDJ 2018 MHC 7179 (Muthu Vs. District Collector and others)** and another judgment of the Hon'ble Suprme Court published in **CDJ 2003 SC 061 : 2002 (10) SCC 283 (Sundarbhai Ambalal Desai Vs. State of Gujarath)**. Hence, prayed the petition to be dismissed.

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

6. It is seen that the vehicle was used in commission of two offences and the vehicle is kept in the custody of the police for more than eight months in one of the criminal case. The petitioner has obtained a Court order for the return of the vehicle in one of the criminal case in Crime No.70 of 2019. If the vehicle is kept open, the value of the vehicle will be deteriorating day by day.

7. In the above circumstances, this Court is inclined to release the vehicle for interim custody to the petitioner subject to the confiscation proceedings on the following conditions:-

(i) If the Original R.C. book was already surrendered before the Court in Crl.R.C.(MD)No.33 of 2020 and the same can be entertained for this case also. If the original R.C.book was not surrendered at that time, the petitioner is directed to surrender the original Registration Certificate of the vehicle before the Principal Sessions Judge, Sivagangai;

(ii)The petitioner shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh only) to the credit of Crime No.112 of 2018 on the file of the Principal Sessions Judge, Sivagangai, along with bond of Rs.2,00,000/- (Rupees two Lakhs only) with two sureties each for a like sum, within a period of four weeks from the date of receipt of a copy of this order.



(iii)The petitioner shall not make any alienation or alterations in the vehicle;

(iv)The petitioner shall produce the vehicle before the Court and before the respondent as and when required and this order is subject to the final order to be passed in the confiscation proceedings.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

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 Principal Sessions Judge,
Sivagangai
2. The Inspector of Police
Poovanthi Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.492 of 2020

08.09.2020

NR (16.09.2020) 3P 4C