



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 02.12.2020

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WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.625 of 2020

Dhandapani : Petitioner/Petitioner/Accused

Vs.

The Sub Inspector of Police,
Taluk Police Station,
Palani.

Crime No.834 of 2020 : Respondent/Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 397 & 401 of Cr.P.C., to call for the records relating to the order dated 20.10.2020 in Cr.M.P.No.1387 of 2020 passed by the learned Judicial Magistrate, Palani and to set aside the same and to release the tractor vehicle bearing Registration No.TN-57-BY-2171.

For Petitioner	: Mr.N.Mohan
For Respondent	: Mr.A.Saravana Kumar Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1387 of 2020 dated 20.10.2020, on the file of the learned Judicial Magistrate, Palani.

2.The petitioner claims to be the owner of the tractor bearing registration No.TN-57-BY-2171, which was seized by the respondent Police in Crime No.834 of 2020 for the offence under 379 of IPC. The petitioner has filed a petition in Cr.M.P.No.1387 of 2020 before the learned Judicial Magistrate, Palani for return of the vehicle. The trial Court dismissed the petition. Against which, the petitioner has preferred the present revision case.

3.On the side of the petitioner, it is stated that the offence is only under Section 379 of IPC not under the Mines and Minerals Act and there is no necessity to approach the Special Court. The learned Magistrate himself is having jurisdiction and prayed the petition to be allowed.



4.In support of his contention, the judgment passed by this Court in the case of ***Rajeswari v. The State*** in ***Crl.R.C.No.436 of 2020*** is cited.

5.On the side of the respondent, it is stated that the sand theft has become a social offence. The Hon'ble Apex Court in the case of ***Sundarbhai Ambalal Desai v. State of Gujarat*** reported in ***2003(1) CTC 175***, has observed that if the vehicle is returned to the petitioner again, there is possibility for the vehicle being used for commission of similar offence and prays the petition to be dismissed.

6.It is seen that the offence is sand theft. But the police has registered the case under Section 379 of IPC. Since the offence is sand theft, the Special Court is having the right to return the vehicle. This Court in Crl.R.C.No.436 of 2020 has observed that only the District and Sessions Court is designated to release the vehicle.

7.In the above circumstances, there is nothing sufficient enough to interfere in the order of the trial Court. The petitioner is at liberty to approach the Special Court for return of the vehicle.

8.With the above observation, this Criminal Revision Case is dismissed and the order passed in Crl.M.P.No.1387 of 2020 dated 20.10.2020, on the file of the learned Judicial Magistrate, Palani. is confirmed.

Sd/-

Assistant Registrar (P&A)

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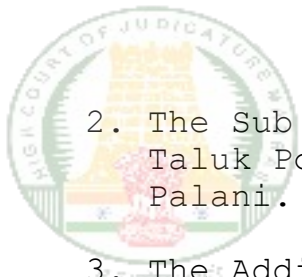
Sub Assistant Registrar(CS)

Mrn

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,
Palani.



2. The Sub Inspector of Police,
Taluk Police Station,
Palani.

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

Crl. R.C. (MD) No. 625 of 2020
02.12.2020

MR (CO)
CS (15.12.2020) 3P 4C