



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2020

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.R.C(MD)No.725 of 2019

and

Crl.M.P(MD)Nos.8455 and 8456 of 2019

K.Malaikallan

... Petitioner

Vs.

The State Rep. through
The Sub Inspector of Police,
Poovanthi Police Station,
Thirupuvanam Taluk,
Sivagangai District.
(Crime No.69 of 2019)

... Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order passed by the learned Principal Sessions Judge, Sivagangai, made in Cr.M.P.No.2182 of 2019, dated 06.09.2019 and return the petitioner's vehicle JCB (Bulldozer) bearing Registration No.TN-67-BX-0810 seized by the respondent police in connection with the Crime No.69 of 2019.

For Petitioner : Mr.D.Sadiq Raja

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.side)

O R D E R

The petitioner claims to be the owner of the JCB (Bulldozer), bearing Registration No.TN-67-BX-0810. According to the petitioner, the alleged vehicle was seized by the Village Administrative Officer on 17.06.2019 and the respondent police registered the case in Crime No.69 of 2019 for the offence under Section 379 of IPC and Section 21(IV) of Mines and Minerals (Development and Regulations) Act, 1957. Seeking return of the said vehicle, the petitioner filed a petition before the learned Principal Sessions Judge, Sivagangai, for interim custody. The learned Principal Sessions Judge, Sivagangai, by order dated 06.09.2019 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 only ground upon which the lower Court has dismissed the petition is that the trial is possible immediately only in this case. In all other cases, immediate prospects for trial appears remote as they are still pending in the investigation stage. 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 Cr.M.P.No.2182 of 2019, dated 06.09.2019, 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.1,00,000/- (Rupees one lakh only) to the credit of Crime No.69 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 an 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. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)



To

1.The Principal Sessions Judge,
Sivagangai.

2.The Sub Inspector of Police,
Poovanthi Police Station,
Thirupuvanam Taluk,
Sivagangai District.

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

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-1544[F] dated 10/01/2020)

Cr1.R.C(MD)No.725 of 2019
10.01.2020

JMN(21.01.2020) 3P : 5C