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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :**13.01.2020**
CORAM
THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**
Crl.R.C(MD)No.877 of 2019

Gnaneswaran ...Petitioner/Petitioner/Owner of the Vehicle

Vs.

1.The Inspector of Police,
Sivagangai Town,
Sivagangai District.
(In Crime No.445 of 2019 ... 1st Respondent/Complainant

2.Padmanaban ... 2nd Respondent/Sole Accused

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 25.10.2019 made in Crl.M.P.No.2755 of 2019 by the Principal Sessions Judge, Sivagangai and allow this revision by directing to hand over interim custody of lorry with Reg.No.TN-28-P-3845 seized in consequent to Crime No.445 of 2019 on the file of the respondent police, to the petitioner.

For Petitioner : Mr.RM.Sivakumar
For R1 : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

The petitioner claims to be the owner of the Ashok Leyland Heavy Goods Lorry, bearing Registration No.TN-28-P-3845. According to the petitioner, the alleged vehicle was seized by the respondent on 27.08.2019 in connection with a case in Crime No.445 of 2019 for the offence under Section 21(1) of Mines and Minerals (Development & Regulation) 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 25.10.2019 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 grievance of the petitioner is that as per the General Clauses Act, the Special Court can exercise all the powers of Magistrate, so the Special Court can entertain the petition under Sections 451 and 457 of Cr.P.C. But, the special Court without analyzing the G.O on which it was constituted, has rejected the

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application. 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 Crl.M.P.No.2755 of 2019, dated 25.10.2019, 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.50,000/- (Rupees Fifty thousand only) to the credit of Crime No.445 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.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

vsd

TO

1.The Principal Sessions Judge, Sivagangai.
2.The Inspector of Police,Sivagangai Town,
Sivagangai District.
3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.
+1 CC to M/s.RM.SIVAKUMAR, Advocate (SR-1647[F] dated 13/01/2020)

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