

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.11 of 2021

Sandha

... Petitioner

Vs.

State by

The Inspector of Police,

Anaikaranchathiram Police Station,

Nagappattinam District.

Crime No.772 of 2020

... Respondent

PRAYER: Criminal Revision petition is filed under Section 397 (1) Cr.P.C seeking to call for the records and set aside the order dated 27.08.2020 made in Crl.M.P.No.2228/2020 on the file of the learned District and Sessions Judge, Nagappattinam District and direct the respondent to hand over vehicle bearing registration No.TN 51 L 2395 to the petitioner/owner.

For Petitioner : Mr.D.Ashokkumar

For Respondent : Mr.K.Madhan

Government Advocate (Criminal Side)

O R D E R

This Criminal Revision Petition has been filed seeking to call for the records and set aside the order dated 27.08.2020 made in Crl.M.P.No.2228/2020 on the file of the learned District and Sessions Judge, Nagappattinam District and direct the respondent to hand over vehicle bearing registration No.TN 51 L 2395 to the petitioner/owner.

2. The vehicle bearing Registration No. TN 51 L 2395 was seized by the respondent police for the alleged offence of illegal transportation of sand and the petitioner is the owner of the vehicle. Therefore, he has filed Crl.M.P.No.2228 of 2020 before learned District and Sessions Judge, Nagappattinam District and the same was dismissed. Challenging the said order, now the petitioner approached this Court by way of this Revision petition.

3. The learned counsel for the petitioner would submit that the petitioner is not the accused and he is only owner of the vehicle and his vehicle was wrongly seized and kept in the custody of the police. If the vehicle is kept in the open place, the value of the vehicle will be reduced. Therefore, he filed

the present petition. He further submits that the learned Magistrate failed to consider the fact that the petitioner is not an accused and he is not involved in transporting the sand and dismissed the Crl.M.P., which has to be set aside and the revision has to be allowed.

4. The learned Government Advocate (Criminal Side) takes notice for the respondent and he would submit that investigation not completed and charge sheet not yet filed. The vehicle seized during the interception by the Police finding that the vehicle was involved in the illegal transportation of sand. Therefore, as per Rule under section 21(4A) of the amended Mines and Minerals Act, 1957 the tools, machineries, instruments, vehicles etc. involved in the commission of the offence of illegal sand mining shall be confiscated upon the order of the Court empowered to take cognizance under the Act. Therefore, the vehicle has been seized involved in the commission of the illegal sand mining and the same shall be confiscated. Therefore, the learned Sessions Judge has rightly dismissed the Crl.M.P.

5. Heard and perused the records.

6. Admittedly the above said vehicle is alleged to have involved in the illegal transportation of the sand and the respondent police seized the vehicle and kept in their custody and investigation not yet completed and charge sheet not yet filed. Time and again this Court directed the authorities to take stringent action against the offenders who are involved in Mines and Minerals Act. To release the vehicle as interim custody under Section 451 Cr.P.C is purely discretionary power of the Court and since investigation is not yet completed and charge sheet not yet filed, this Court is not inclined to exercise the discretionary power. Hence, this Criminal Revision Petition is dismissed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The District and Sessions Judge, Nagapattinam.
- 2.The Inspector of Police,
Anaikaranchathiram Police Station, Nagapattinam District.
- 3.The Public Prosecutor, High Court of Madras, Chennai -104.

AKM/12.02.2021/2P-4C /

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