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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.392 of 2021

Prakash

...Petitioner/Petitioner

Vs.

State rep.by the
Inspector of Police,
Sembanarkovil Police Station,
Nagapattinam District.
(Crime No.1166 of 2020)

...Respondent/Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned District and Sessions Judge, Nagapattinam in Crl.M.P.No.3423 of 2020, dated 18.12.2020 and to set aside the same by ordering interim custody of the Tata Hitachi Earth Mover, Model No.ZX210LCH-1, Machine No.0ACE-001610, Serial No.TN 2006 CTC 0H, Certificate No.885906 to the petitioner.

For Petitioner : Mr.K.Suresh
For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

The present Criminal Revision Case has been filed against the order dated 18.12.2020, passed by the learned District and Sessions Judge, Nagapattinam in Cr.M.P.No.3423 of 2020 dismissing the petition filed under Section 457 of Cr.P.C., seeking return of the Tata Hitachi Earth Mover (Model No.ZX210LCH-1, Machine No.0ACE-001610, Serial No.TN 2006 CTC 0H, Certificate No.885906) to the petitioner.

2. The respondent-Police has seized above Tata Hitachi Earth Mover vehicle, belonging to the petitioner in connection with the case registered in Crime No.1166 of 2020 on its file for offence under Sections 379 and 21 (1) of Mines and Minerals (Development and Regulation) Act. Hence, the petitioner has moved Cr.M.P.No.3423 of 2020, before the designated Court,



viz., the learned District and Sessions Judge, Nagapattinam, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 18.12.2020. Hence, this revision.

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3. The learned counsel for the petitioner would submit that subject matter of vehicle was not involved in the alleged offence, it is only based on the false information the respondent/police seized the vehicle and that the matter is pending for more than six months. He would further submit that the vehicle in question is left idle in the open space thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby, putting the petitioner to hardship and hence, he seeks for return of the vehicle.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the alleged Tata Hitachi Earth Mover vehicle (Model No.ZX210LCH-1, Machine No.0ACE-001610, Serial No.TN 2006 CTC 0H, Certificate No.885906) has been used for illegal transportation of sand and investigation is still pending and hence, he objects for release of the vehicle.

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

6. Admittedly, the case was registered against the petitioner for illegal transportation of river sand. This Court, time and again, gave a direction that stringent action should be taken in the case of Mines and Minerals and also natural resources. It is seen that in the present case, investigation is pending and charge sheet has not yet filed. If at all, after investigation found that the vehicle is involved in the commission of offence, it is liable to be confiscated. The release of the vehicle during investigation is purely the discretionary power of the Court. Therefore, the learned Judge by exercising the discretionary jurisdiction has dismissed the petition filed by the petitioner. This Court, while exercising the revisional jurisdiction cannot conduct roving enquiry at this stage.

7. In view of the same, this Court does not find any perversity or infirmity in the order passed by the Court below. Accordingly, this Criminal Revision case is dismissed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar



r n s
To

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

Copy to :

The Chairman,
The POCSO Committee,
High Court, Madras.

+2 CCs to Mr.K. Suresh, Advocate, Sr 28588.

Cr1.R.C.No.392 of 2021

RSI (CO)
LS (27/07/2021)