

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.7565 of 2021

Vishal

... Petitioner

Versus

1.The State
Represented by
The Inspector of Police
Mohanur Police Station
Namakkal District.

2.The Assistant Director
Mines and Minerals Department
Collector Office Complex
Namakkal District.

3.The Tahsildar
Mohanur Taluk
Namakkal District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify "(vi.The petitioner shall surrender the original R.C.Book before the learned Principal Sessions Judge, Namakkal)" which is imposed in Crl.M.P.No.2071 of 2019 dated 11.03.2020 on the file of the Principal District and Sessions Judge, Namakkal, by allowing the present Criminal Original Petition.

For Petitioner : Mr.B.Siddeswaran

For Respondents: Mr.A.Damodaran
Government Advocate (Crl. Side)

ORDER

This petition has been filed to modify the condition that "(vi. The petitioner shall surrender the original R.C.Book before the learned Principal Sessions Judge, Namakkal)", which is imposed in Crl.M.P.No.2071 of 2019 dated 11.03.2020, on the file of the Principal District and Sessions

Judge, Namakkal, by allowing the present Criminal Original Petition.

2. The petitioner is the driver of the vehicle "Mahindra & Mahindra Bolero Max Truck Plus" bearing Registration No.TN-37-AY-2093, which was involved in illegal transportation of river sand and a case has been registered by the respondent police and seized the said vehicle. Thereafter, the petitioner had filed a petition to return the said vehicle, before the Principal Sessions Judge, Namakkal, in CrI.M.P.No.2071 of 2019, in which, he had projected himself as the owner of the vehicle. The learned Principal Sessions Judge, by the order, dated 11.03.2020, directed to return the said vehicle with certain interim conditions. The petitioner has complied with some conditions and also filed a modification petition in CrI.M.P.No.8356 of 2020 and this Court by the order dated 12.06.2020 modified the condition and directed the petitioner to deposit only a sum of Rs.25,000/-. In the said order, the Registration number of the vehicle has been wrongly mentioned as TN-66-E-0767, which necessitated to file the another modification petition in CrI.M.P.No.8386 of 2020 and this Court by the order dated 17.08.2020 incorporated the correct vehicle Registration No.TN-37-AY-2093.

3. Since the vehicle is hypothecated with Sri Vetrivel Finance Company, Namakkal, in H.P.No.06/26.01.2019, the present petition is filed seeking modification of the condition to surrender the original R.C.Book before the learned Principal Sessions Judge, Namakkal. In order prove the above, a letter from the said Finance Company is also marked, which shows that the vehicle is hypothecated and the loan amount of Rs.1,50,000/- has been obtained and the loan amount is yet to be discharged. Hence, it is clear that the R.C.Book is in the custody of the Finance Company.

4. When the mater is taken up for hearing on 22.04.2021, this Court passed the following order:-

"2. It is seen that the petitioner is only a driver of "Mahindra & Mahindra Bolero Max Truck Plus" bearing Registration No.TN-37-AY-2093 , vehicle but, he is not the owner, which is confirmed by Sri Vetrivel Finance Company, in which the said vehicle was hypothecated by the owner of the vehicle. By letter dated 01.03.2021 of the financial company, it is stated that the petitioner is not the owner of the said vehicle and one M.Rajendiran, S/o. Marappan, is the owner of the vehicle and the said petitioner referred as driver of the vehicle and the same was under finance. Therefore, he seeks modification.

3. In view of the same, M.Rajendiran, S/o. Marappan being the owner of the said vehicle and the said Vishal was entrusted as a driver/Vishal, for which the petitioner took all steps to filing necessary petition before the Lower Court as well as the High Court and the condition imposed by the Lower Court and the High Court, he only abetted by him, hence, the conditions imposed on him. Therefore, this Court directs the counsel for the petitioner to file a detail affidavit of Mr.M.Rajendiran, owner of the vehicle by supporting the petitioner's contentions."

5. In view of the above order, the owner of the vehicle/Mr.Rajendiran had filed an affidavit, dated 23.04.2021, wherein he admitted that the vehicle belongs to him and he had entrusted the vehicle to the petitioner, who had involved in illegal transportation of river sand and the case in Crime No.452 of 2019 for the offence under Section 379 of IPC and Section 21(1) of Mines and Minerals Act, 1957 has been registered. In the said affidavit, the the owner of the vehicle/Mr.Rajendiran has reiterated the entire case from filing of Crl.M.P.No.2071 of 2019, by which the vehicle was ordered to be returned to the petitioner by the Lower Court, till the present modification petition. It is seen from the affidavit that the owner of the vehicle M.Rajendiran fully aware and he has authorised the petitioner to represent him in all these petitions and also for handing over the vehicle to him.

6. In view of the same, the condition is modified and the vehicle is to be handed over to the petitioner, which is in the custody of the Tahsildar. As per the earlier order of this Court in the modification petition, dated 12.06.2020, the petitioner shall deposit a sum of Rs.25,000/- before the concerned Thasildar and the receipt of the same shall be produced before the Lower Court. Thereafter, the petitioner shall execute the surety bond to the respondent police along with a copy of the affidavit filed before this Court. Thereafter, the said vehicle shall be returned to the petitioner without insisting for surrender of original R.C.Book.

7. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dna

To

- 1.The Principal District and Sessions Judge,
Namakkal.
 - 2.The Inspector of Police,
Mohanur Police Station,
Namakkal District.
 - 3.The Assistant Director,
Mines and Minerals Department,
Collector Office Complex,
Namakkal District.
 - 4.The Tahsildar,
Mohanur Taluk,
Namakkal District.
 5. The Public Prosecutor,
High Court, Madras.
- +lcc to Mr.B.Siddeswaran, Advocate Sr.28492

CRL.O.P.No.7565 of 2021

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