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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.239 of 2021

Karthi ...Petitioner/Vehicle Owner
..VS..

The State rep. by,
The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District,
Crime No.1301 of 2020.

...Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to set aside the order of dismissal dated 19.03.2021 made in CrI.M.P.No.1417 of 2020 on the file of the Principal Sessions Judge, Thiruvarur by allowing the present Criminal Revision Petition.

For Petitioner : Mr.R.Jayaprakash
For Respondent : Mr.S.Sugendran
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 19.03.2021 passed in CrI.M.P.No.1417 of 2020 by the learned Principal Sessions Judge, Thiruvarur.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.1301 of 2020 against him for the offence under Section 379 IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and seized the Tipper lorry bearing Registration No.TN 45 L 2266. During the pendency of the investigation, the petitioner filed a petition in Cr.M.P.No.1417 of 2020 under Section 451 and 457 of Cr.P.C seeking interim custody of the vehicle, which was dismissed by the Court below, against which the petitioner is before this Court with the present Criminal Revision Case.

3.The learned counsel for the petitioner would submit that the petitioner has got prior permission to transport vandal sand from the Tahsildar, Kodavasal and has transported the vandal Sand, however, the respondent police falsely implicated the

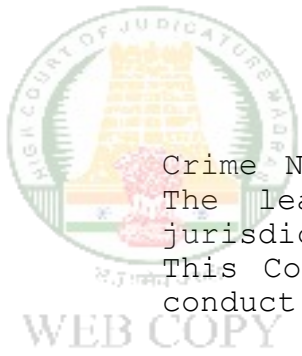


petitioner and registered the case against him by stating that the said vehicle has been used for transporting savudu sand and also seized the vehicle. He would further submit that the vehicle in question is left idle in the open space for more than one year thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby, putting the petitioner to hardship and hence, he seeks interim custody of the vehicle and that he would abide by stringent conditions, if any, to be imposed on him.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the very same vehicle was used for illegal transportation of river and savudu sand and the same was seized by the respondent police in another case in Crime No.420 of 2019. As per the order dated 05.02.2020 in Crl.M.P.No.2271 of 2019, the petitioner has got interim custody of the vehicle, by giving an undertaking that he would not involve in any offence in future. He would further submit that the petitioner is a habitual offender and he has also violated the under taking given by him. He would further submit that the petitioner has not come to Court with clean hands and therefore, this Criminal Revision may be liable to be dismissed.

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

6.Admittedly, the respondent/police registered the case in Crime No.1301 of 2020 against the petitioner for illegal transportation of savudu sand and also seized the vehicle bearing Registration No.TN 45 L 2266. During the pendency of the investigation, the petitioner filed a petition before the designated Court. The designated Court observed that the very same vehicle was involved in another case in Crime No.420 of 2019 and also the petitioner has got interim custody of the vehicle as per the order dated 05.02.2020 in Crl.M.P.No.2271 of 2019. However, the petitioner has violated the conditions and undertaking given by him in the said order and he has involved in the present case in Crime No.1301 of 2020 and dismissed the petition. Whether the petitioner violated the conditions or really as to whether he transported vandal sand or river sand or savudu sand, after investigating the matter to be decided by the trial Court. This Court, time and again, gave a direction that stringent action should be taken in the cases of theft of Mines and Minerals and also natural resources. It is seen that in the present case, investigation is pending and charge sheet 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. More over, the disputed vehicle was involved in another case in



Crime No.420 of 2019 and also got interim custody of vehicle. The learned Sessions 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. Under these circumstances, this Court does not find any perversity or infirmity in the order passed by the Court below. Accordingly, this Criminal Revision case is dismissed.

s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Sessions Judge,
Thiruvarur.

2. The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

3. The Public Prosecutor,
High Court, Madras.

4. The Section Officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr. R. Jayaprakash, Advocate sr 28097.

Cr1.R.C.No.239 of 2021

VGII (CO)
SP (16/07/2021)