

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.248 of 2021

Raja

... Petitioner

Vs.

State rep.by the
Inspector of Police,
Kallakurichi Police Station,
Villupuram District,

... Respondent

(Crime No.2513 of 2020)

PRAYER: Criminal Revision Petition filed under 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.I, Kallakurichi, dated 02.03.2021 in C.M.P.No.936 of 2021 and order return of the vehicle JCB (Earth Moving Machine) bearing Regn.No.TN-55-AA-8186, Engine No.H00018386, Chasis No.1814343 concerned in Crime No.2513 of 2020, on the file of the respondent to the custody of the petitioner.

For Petitioner : Mr.K.Balu

For Respondent : Mr.A.Madhan
Government Advocate (Crl.Side)

सत्यमेव जयते
O R D E R

The petitioner / owner of the vehicle has preferred this Criminal Revision as against the order dated 02.03.2021 in C.M.P.No.936 of 2021 passed by the learned Judicial Magistrate No.I, Kallakurichi in dismissing the petition filed for return of vehicle under Section 451 of the Criminal Procedure Code.

2. The respondent-Police seized the vehicle JCB (Earth Moving Machine) bearing Regn.No.TN-55-AA-8186, Engine No.H00018386, Chasis No.1814343 for the commission of alleged offence under Section 379 of IPC in Crime No.2513 of 2020, on the allegation that the petitioner has used the vehicle for excavation of sand without any permit or authorization from the

concerned authorities. Petitioner moved C.M.P.No.936 of 2021 on the file of learned Judicial Magistrate No.I, Kallakurichi, seeking return of vehicle which came to be dismissed by an order dated 02.03.2021. Aggrieved thereby present revision stands filed.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and the respondent-Police falsely implicated his vehicle with regard to Crime No.2513 of 2020 and seized the same. It is further submitted that his vehicle has been parked in open place and due to hot sun and heavy rain, it will lose its value and originality and hence, prays to set-aside the order passed by the Court below.

4. The learned Government Advocate (Criminal Side), appearing for the respondent-State would submit that the investigation is still pending and the vehicle has been utilized for excavation of sand without any permit or authorization from the concerned authorities. Therefore, the learned Government Advocate prays that the Court below, on proper appreciation of the materials before it, dismissed the petition and the same called for no interference.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent.

6. Admittedly, a case was registered by the respondent-Police in Crime No.2513 of 2020 on its file for offence under Section 379 of IPC and during the pendency of the investigation, the respondent-Police has seized vehicle JCB (Earth Moving Machine) bearing Regn.No.TN-55-AA-8186, Engine No.H00018386, Chasis No.1814343.

7. Though the learned counsel for petitioner would submit that the vehicle cannot be kept in open space, if it is kept in open space, and exposed to sun light and rain, it would lose its value, and therefore it has to be returned, however, in the case on hand, as admittedly, the investigation is not yet completed and the charge sheet also yet to be filed and if the vehicle is released, there would be a possibility for changing the engine and chassis number, which would defeat the entire case of the prosecution, and therefore, this Court is not inclined to grant relief to the petitioner. Further, during the investigation, releasing of the vehicle is purely discretionary power of the Court. Unless any arbitrariness or malafides found, the revision Court need not interfere with the order passed by the Court below.

8. In view of the above, this Court is not inclined to exercise discretionary power and there is no illegality or perversity in the order passed by the learned Judicial Magistrate No.I, Kallakurichi. In fine, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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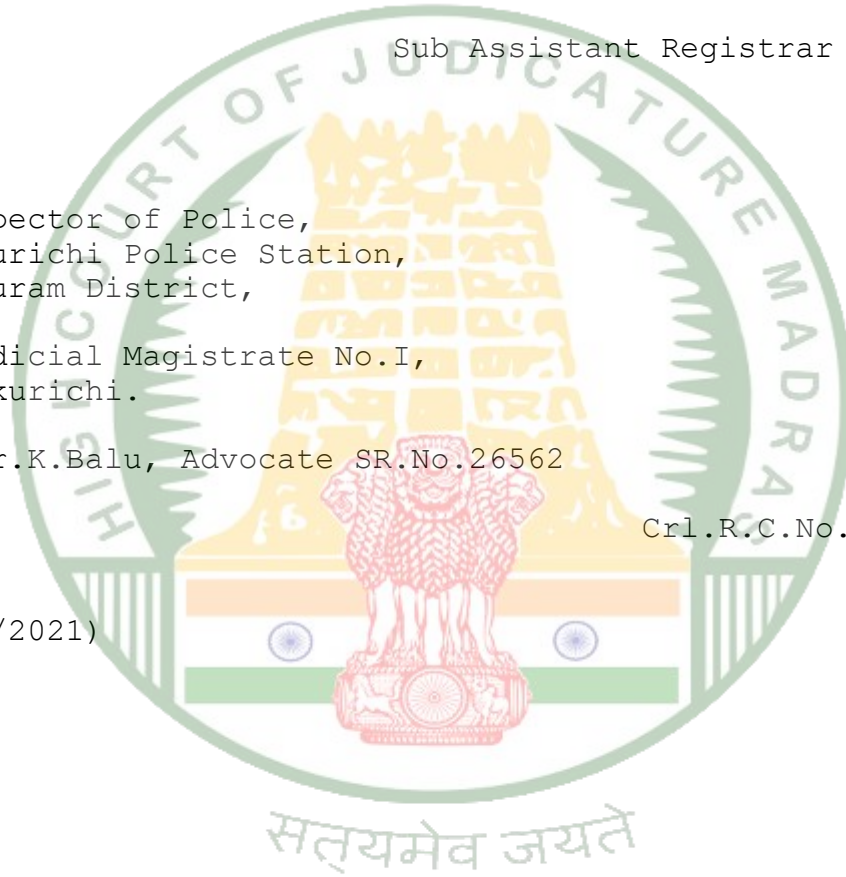
To

- 1.The Inspector of Police,
Kallakurichi Police Station,
Villupuram District,
2. The Judicial Magistrate No.I,
Kallakurichi.

+1cc to Mr.K.Balu, Advocate SR.No.26562

Cr1.R.C.No.248 of 2021

SSD(CO)
GMY(28/06/2021)



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