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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.346 of 2021

A.Mesia

... Petitioner

..VS..

State represented by,
The Inspector of Police,
Kodavasal Police Station,
Thiruvarur District,
Crime No.1492 of 2020.

... Respondent

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to set aside the order passed in Crl.M.P.No.1578 of 2020 by the learned Principal Sessions Judge, Thiruvarur dated 23.03.2021 and direct the respondent police to return the Tipper Lorry of the petitioner bearing Registration No.TN 46 B 0230 to the petitioner.

For Petitioner : Mr.N.Palanisamy

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

O R D E R

This Criminal Revision Case has been filed against the order dated 23.03.2021 passed in Crl.M.P.No.1578 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.1492 of 2020 against the petitioner 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 46 B 0230 on 11.08.2020. During the pendency of the investigation, the petitioner filed a petition in Crl.M.P.No.1578 of 2020 under Section 451 and 457 of Cr.P.C., seeking interim custody of the said vehicle and the same was dismissed by the Court below. Challenging the same, the petitioner is before this Court.

3.The learned counsel for the petitioner would submit that one Manavalan S/o.Sivasubramaniam has got prior permission from the Tahsildar, Nannilam to transport vandal sand from 11.08.2020 to 13.06.2020 and 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 without obtaining prior license or permission 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, the petitioner filed a petition seeking interim custody of the vehicle. However, the Court below failed to consider the licence or permission and dismissed the petition and hence, the same is liable to be set aside.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the complainant himself clearly stated that while seizing the vehicle, the petitioner has not produced any licence or permission and the driver also admitted the said fact. Therefore, the case was registered against the petitioner and the vehicle was seized. He would further submit that the very same vehicle was used for illegal transportation of 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.3020 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 investigation is pending and the charge sheet is not yet filed. The Court below has rightly dismissed the petition 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.1492 of 2020 against the petitioner for illegal transportation of savudu sand and also seized the vehicle bearing Registration No.TN 46 B 0230. During the pendency of the investigation, the petitioner filed a petition before the designated Court. The designated Court dismissed the petition on the ground that the very same vehicle was involved in another case in Crime No.420 of 2019 and the petitioner has also got interim custody of the vehicle as per the order dated 05.02.2020 in Crl.M.P.No.3020 of 2019. However, the petitioner violated the conditions and undertaking given by him in the said order and he has involved in the present case in Crime No.1492 of 2020 and filed a petition in Crl.M.P.No.1578 of 2020 seeking interim custody of the said vehicle and the same was dismissed by the Court below.



7. 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. 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.

8. Under these circumstances, this Court does not find any perversity or infirmity in the order dated 23.03.2021 passed in CrI.M.P.No.1578 of 2020 by the learned Principal Sessions Judge, Thiruvavur. Accordingly, this Criminal Revision case is dismissed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Thiruvavur.

2. The Inspector of Police,
Kodavasal Police Station,
Thiruvavur District.

3. The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.346 of 2021

LN(CO)
GN(02/08/2021)