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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.351 of 2021

P.Jayaraman

...Petitioner

-Vs-

State rep. by
The Sub Inspector of Police,
Mamallapuram Police Station
(Cr.No.73 of 2021)

...Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 03.05.2021 made in Crl.M.P.No.380 of 2021 in Cr.No.73 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Thirukallukundram and to return the vehicle Catterpillar Backhoe Loader JCB bearing Regd.No.TN 19 AX 9343 to the petitioner.

For Petitioner : Mr.T.K.S.Gandhi

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

O R D E R

The respondent police registered a case in Cr.No.73 of 2021 for the offence under Section 379, 430 of IPC for illegal transportation of sand. The petitioner has filed a petition under Section 451 of Cr.P.C. seeking return of vehicle and the learned Magistrate dismissed the petition by observing that he has no jurisdiction to entertain this petition and on merit also he observed that the offence is serious in nature and hence dismissed.

2 According to the learned counsel appearing for the petitioner, the petitioner is a owner of vehicle and trial may take long time, till then, if the vehicle is kept open to air, sun and rain, it will be severely damaged. Hence, he seeks return of vehicle.



3 The learned Government Advocate (Cr1.Side) appearing for the respondent police would submit that investigation has not yet completed and charge sheet has also not filed and hence the vehicle in question cannot be released at this stage.

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

5 It is seen that in the present case, investigation is pending and charge sheet not yet filed. Further, if the offence is proved, the vehicle in question has to be subjected to confiscation. Further, during investigation, decision in petition under Section 451 of Cr.P.C is purely discretionary power vested with the Magistrate concerned and this Court is not inclined to interfere with the same, since there is no perversity in the order of dismissal by the trial Court.

6 Hence, this criminal revision case is dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Thirukallukundram.
2. The Sub Inspector of Police,
Mamallapuram Police Station
3. The Public Prosecutor, High Court of Madras.

Cr1.R.C.No.351 of 2021

GMI (CO)
PM(26/07/2021)