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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.390 of 2021

Sivaraj

... Petitioner

-Vs-

State rep. by
The Sub Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
(Cr.No.169 of 2021)

... Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 10.05.2021 made in Crl.M.P.No.963 of 2021 on the file of the learned Judicial Magistrate No.II, Villupuram, and to return the vehicel of Tractor (SONALIGA TRACTOR AND TIPPER) bearing Regn.No.TN-21-AZ-0208 to the petitioner.

For Petitioner : Mr.V.Manimaran

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

O R D E R

The respondent police registered a case in Cr.No.169 of 2021 for the offence under Section 379, 430 of IPC and 21(1) of Mines and Minerals (Development & Regulation) Act for illegal transportation of sand. The petitioner has filed a petition under Section 451 of Cr.P.C. seeking return of vehicle, stating that he is the owner of the vehicle and he never used the vehicle for illegal purpose and the respondent police foisted false case against the petitioner. The learned Magistrate dismissed the petition on the ground that investigation is pending.

2 According to the learned counsel appearing for the petitioner, the petitioner is a owner of vehicle and handed over to one Raji for taking sand for agricultural purpose and he illegally transported sand as stated by the prosecution. Hence, he seeks return of vehicle.



3 The learned Government Advocate (Crl.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, 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(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II, Villupuram.
2. The Sub Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
3. The Public Prosecutor, High Court of Madras.
4. The Section Officer, Criminal Section,
High Court, Madras

Crl.R.C.No.390 of 2021

RLD (CO)
K.RK.(20.07.2021)