

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.20094 of 2020

R.D.Easwar,
Proprietor,
M/s.Andavar Transport,
Chennai-81.
Residing at No.40A, Balu Mudali Lane,
Old Washermenpet, Chennai. Petitioner

.Vs.

The State rep. by
The Forest Range Officer,
Redhills Range,
Seethancheri,
Tiruvallur District. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside order passed by learned Judicial Magistrate No.II at Ponneri in CMP.No.4387 of 2019 on 07.02.2020 and return the TATA Mini Container Lorry bearing Registraion No.TN 03 Y 9555, Engine No.497TC415RY837450, Chasis No.MAT50821637K25752 to petitioner.

For Petitioner : Mr.S.Sugendran
For Respondents : Mr.C.Raghavan
Government Advocate, (Crl Side)

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking for the return of vehicle which was involved in the offence under the Tamil Nadu Forest Act (hereinafter called as 'the Act')

2.The petitioner is the owner of the vehicle and it was hired by A1 and his lorry was used for illegally transporting sandalwood. The vehicle was seized on 29.06.2019 and was shown as a case property. The petitioner has also been added as an accused in this case as A2.

3.The petitioner filed an application for return of vehicle and the same was dismissed by the Court below mainly on the ground that the vehicle has already been subjected to confiscation proceedings and an order has also been passed and thereby the vehicle has become the property of the Government by virtue of Section 56 of the Act, 1882. Aggrieved by the same, the present petition has been filed before this Court.

4.Heard Mr.S.Sugendran, learned counsel appearing on behalf of the petitioner and Mr.C.Raghavan, learned Government Advocate, appearing on behalf of the respondent.

5.The learned counsel for the petitioner heavily relied upon the earlier order passed by this Court in CrI.O.P.No.11954 of 2019 dated 06.06.2019. In the considered view of this Court, this order will not apply to the facts of the present case, since that was a case where the confiscation proceedings had only been initiated and this Court also took into consideration the fact that the petitioner in that case was not an accused, who was involved in the offence.

6.The Court below has considered the entire issue in detail and has rightly come to a conclusion that once the confiscation order is passed, the property automatically becomes the property of the Government by virtue of Section 56 of the Act. In this case, the confiscation order was passed on 13.12.2019. That apart exercising the power under Section 451 and 457 Cr.P.C., in cases of this nature will have to be undertaken on a case to case basis with care and caution, keeping in mind the spirit of the provision under Section 49(A) of the Act. This Court is not inclined to interfere with the order passed by the Court below. If the petitioner is aggrieved by the confiscation order passed by the concerned authority, he has to independently work out his remedy in the manner known to law.

7.This Criminal Original Petition is accordingly dismissed.

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Assistant Registrar
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Sub Assistant Registrar

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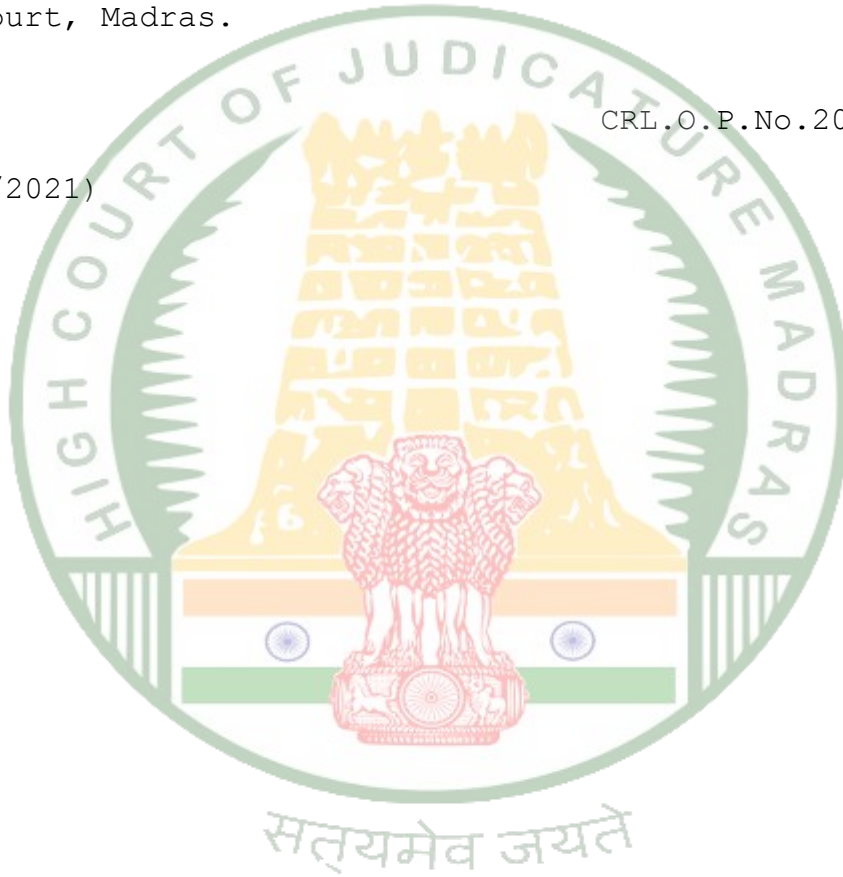
To

1.The Forest Range Officer,
Redhills Range,
Seethancheri,
Tiruvallur District.

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.20094 of 2020

RSI (CO)
RMP (27/01/2021)



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