



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 24.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.133 of 2021

Logan Santhiyagu

.. Petitioner/Petitioner

Vs.

The Inspector of Police,
Manamaadurai Police Station,
Sivagangai District.
(Crime No.753 of 2020)

.. Respondent/Respondent

Prayer : This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., to set aside the order passed in Cr.M.P.No.3204 of 2020 on the file of the learned Principal Sessions Judge, Sivagangai dated 05.01.2021.

For Petitioner : Mr.S.Poornachandran

For Respondent : Mrs.S.Bharathi

Government Advocate (CrI. Side)

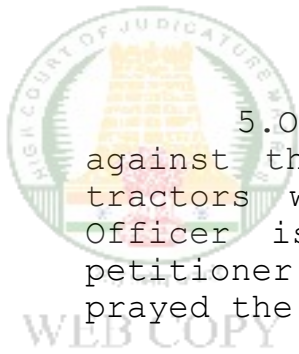
ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.3204 of 2020 dated 05.01.2021, on the file of the learned Principal Sessions Judge, Sivagangai.

2.The respondent seized a JCB bearing Registration No.TN-60-AZ-2053 and produced the property before the Court. Subsequently, the petitioner claiming himself as the owner of the JCB, has approached the learned Principal Sessions Judge, Sivagangai, by filing a petition for return of the JCB and the learned Judge allowed the petition in CrI.M.P.No.3204 of 2020 dated 05.01.2021 on certain conditions. Against the condition no.2, the petitioner preferred the Criminal Revision Case.

3.On the side of the petitioner, it is stated that the petitioner is an agriculturist. The petitioner used the vehicle only for agricultural purpose. The vehicle was used for digging pit for storing fertilizers in the patta land. No offence was made out against the petitioner. The petitioner is not an accused in the case. Being an agriculturist, the petitioner is not in a position to mobilize funds and prayed the vehicle to be returned to the petitioner.

4.The learned counsel for the petitioner would rely upon the judgment passed by this Court in the case of Udaian v. The Revenue Divisional Officer in W.P.(MD)No.2660 of 2021, wherein this Court has not imposed any such condition.



5. On the side of the respondent, it is stated that the case against the petitioner is sand theft. The JCB vehicle with two tractors were used for taking sand. The Village Administrative Officer is the complainant. If the condition is relaxed, the petitioner may not produce the vehicle at the time of trial and prayed the petition to be dismissed.

6. It is seen that there is no possibility of an agriculturist to have purchase a JCB for agricultural purpose. The offence alleged is serious in nature. To ensure the production of the vehicle at the time of trial, the conditions imposed by the lower Court are reasonable. The petition is liable to be dismissed.

7. It is seen that the complainant is a Village Administrative Officer. The case was registered only under Section 379 of IPC and not under MMDR Act.

8. In view of the above, the District Collector is directed to depute a Revenue officials not below the rank of Tahsildar to file a private complaint before the Special Court within a period of one month from the date of receipt of copy of this order. On such complaint, the respondent is directed to alter the charge within a period of one month from the date of filing of the private complaint. The concerned Special Court is directed to club both the police case and the private complaint together and to take the case on file under the MMDR Act and to dispose the same in accordance with law.

9. Accordingly, this Criminal Revision Case is dismissed. The Registry is directed to send the copy of the order immediately to the Special Court and the concerned District Collector and to the concerned Judicial Magistrate.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

- 1.The Principal Sessions Judge, Sivagangai.
- 2.The District Collector, Sivagangai.
- 3.The Inspector of Police,
Thachanallur Police Station,
Tirunelveli District.
- 4.The Chief Judicial Magistrate,
Sivagangai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai

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SMV (CO)
KB (15.04.2021) 3P 7C