



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 08.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.173 of 2021

Raja .. Petitioner/owner of the vehicle
Vs.

State Rep. By
The Sub Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
(Crime No.467 of 2020)

.. Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records pertaining to the order passed in Cr.M.P.No.5001 of 2020 in Crime No.467 of 2020 dated 16.12.2020 on the file of the learned Principal Sessions Court (FAC), Thanjavur and to set aside the same.

For Petitioner : Mr.K.Sivabalan
For Respondent : Mr.K.R.Bharathi Kannan
Government Advocate (Crl. Side)

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.5001 of 2020 dated 16.12.2020, on the file of the learned Principal Sessions Judge(FAC), Thanjavur.

2.The petitioner claims to be the owner of the Bolero Maxi Truck bearing registration No.TN-49-BT-0245, which was seized by the respondent Police in Crime No.467 of 2020 for the offences under Section 379 of IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act. The petitioner has filed a petition in Cr.M.P.No.5001 of 2020 before the learned Principal Sessions Judge, Thanjavur for return of the vehicle. The trial Court dismissed the petition. Against which, the petitioner has preferred the present revision case.

3.On the side of the petitioner, it is stated that the lower Court has dismissed the petition stating that the alleged vehicle was involved in a previous case of same nature. A false case has been foisted against the petitioner by the respondent. The petitioner has not violated the conditions imposed by this Court in the earlier case. The vehicle was seized by the respondent on 26.08.2020. Keeping the vehicle in the open space will cause damage to the vehicle and prayed the vehicle to be returned to the



petitioner.

4. On the side of the respondent, it is stated that the vehicle was seized by the respondent for illegal transportation of river sand. The vehicle was used for commission of another offence in Crime No.105 of 2019 by Kallaperambur Police Station. The vehicle was returned for interim custody in Cr.M.P.No.4549 of 2019 dated 04.01.2020 on condition that the vehicle should not be used for commission of similar offence. The vehicle has to be confiscated for violating the condition and prayed the petition to be dismissed.

5. It is seen that the petitioner is not an accused in the case. The allegation is that the vehicle was used for commission of an offence in Crime No.105 of 2019 and the vehicle was returned for interim custody in Cr.M.P.No.4549 of 2019 dated 04.01.2020. Subsequently, the same vehicle was seized in the present case in Crime No.467 of 2020. The vehicle was seized by the respondent on 26.08.2020 and is kept idle for the past four months. Keeping the vehicle idle will make the vehicle useless.

6. In view of the same, this Criminal Revision Case is allowed and the order of the learned Principal Sessions Judge, Thanjavur in Cr.M.P.No.5001 of 2020 is set aside and the learned Judge is directed to return the vehicle to the petitioner for interim custody subject to the confiscation proceedings on the following conditions:

(I) The petitioner shall file an affidavit of undertaking that he shall not use the vehicle for commission of any offence ;

(ii) The petitioner shall deposit the original Registration Certificate of the vehicle with the learned Principal Session Judge, Thanjavur ;

(iii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.467 of 2020 on the file of the learned Principal Sessions Judge, Thanjavur within a period of two weeks from the date of receipt of a copy of this order ;

(iv) The petitioner is directed to execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Thanjavur ;

(v) The petitioner shall not alienate and shall not make any alteration in the vehicle ;

(vi) The petitioner shall produce the vehicle before the Court and before the respondent as and when required and this order is subject to the final order to be passed in the confiscation proceedings ;



WEB COPY

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(vii) If any of the aforesaid conditions are violated, this order automatically stands cancelled.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

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, Thanjavur.

2.The Sub Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.SIVA BALAN, Advocate (SR-10012[F] dated 10/03/2021)

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NA (CO)

KB(15.03.2021) 3P 5C