



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **16.04.2021**

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.R.C(MD)No.263 of 2021

MaheshKumar

... Petitioner/Petitioner

Vs.

The Sub-Inspector of Police,
Pasupathipalayam Police Station,
Karur District.
(Crime No. 743 of 2020)

...Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order made in Crl.MP No.251 of 2021 on the file of the Special Court for Mines and Minerals Development cum District Sessions Judge, Karur, dated 15.03.2021 and hand over the interim custody of the vehicle bearing regn. no.TN-59-AM-3692 belongs to the petitioner.

For Petitioner : Mr.S.Gokulraj

For Respondent : Mr.A.Robinson,

Government Advocate (Crl.side)

O R D E R

The petitioner claims to be the owner of the vehicle (Tractor) bearing Registration No.TN-59-AM-3692. On 19.02.2021, the respondent police found the said vehicle carrying sand in violation of the provision of the Mines and Minerals Development Regulation Act, 1957. The respondent registered a case in Crime No. 743 of 2020 under Sections 379 IPC., & 21(3) of Mines and Minerals Development Regulations Act, 1957, and seized the said vehicle. Seeking return of the said vehicle, the petitioner filed a petition before the learned District Sessions Judge, Karur, for interim custody. The learned Judge, by order dated 15.03.2021, has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

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



3.Mr.A.Robinson, learned Government Advocate (Crl.side) has strongly objected to release the vehicle.

4. The only ground upon which the lower court has dismissed the petition is that already confiscation proceeding had been initiated under Section 21(1) of the Mines and Minerals Development Regulations Act, 1957, as against the vehicle in question. According to the lower Court, since such proceeding was pending, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Magistrate is not correct. It is well settled that during the pendency of confiscation proceeding, the vehicle needs to be returned to the person, who is entitled to have. The return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

5.In view of the above, this revision is allowed and the order of the learned District Sessions Judge, Karur, in Crl.M.P.No.251 of 2021 is set aside and the learned Judge is directed to return the vehicle subject to the confiscation proceedings to the petitioner on the following conditions:-

(a) The petitioner shall deposit the original Registration Certificate of the vehicle;

(b) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.743 of 2020 on the file of the learned District Sessions Judge, Karur, within a period of one week from the date of receipt of a copy of this order;

(c) The petitioner shall not make any alteration of the vehicle;

(d) The petitioner shall produce the same before the Court as an when required, until final order is passed in the confiscation proceedings.

6. The authority under the Mines and Minerals Development Regulations Act, 1957 may proceed with the confiscation proceedings and the petitioner shall obey any order that may be passed in the said proceeding by the authority.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ksa



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.

ToT

- 1.The Special Court for Mines and Minerals
Development cum District Sessions Judge, Karur,
2. The Sub-Inspector of Police,
Pasupathipalayam Police Station,
Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.GOKULRAJ, Advocate (SR-16087[F] dated 16/04/2021)

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DKS (CO)
TR(19.04.2021) 3P 5C