



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the First day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3503 of 2021

IN

CRL RC(MD) No.346 of 2021

YESUDHASAN

... PETITIONER/PETITIONER

Vs

1 THE SUB INSPECTOR OF POLICE,
COLACHEL POLICE STATION,
COLACHEL,
KANYAKUMARI DISTRICT.

2 NITHIN

... RESPONDENTS/RESPONDENTS

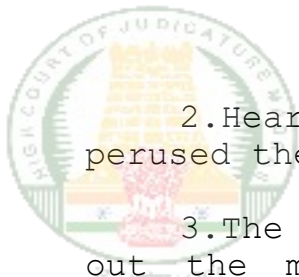
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Stay the Operation of the order dated 05.03.2021 Passed in Memo in Crime No. 59/2019 by the Judicial Magistrate Eraniel Pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD)No.346/2021 :

To Call for the records to set aside the order dated 05.03.2021 Passed in the memo dated 05.03.2021 in Crime No. 59/2019 on the file of the Judicial Magistrate Eraniel and allow this Criminal Revision Petition and direct the Lower Court to retain the vehicle Mini bus produced by the 2nd respondent before the Court on 05.03.2021 within the Number Plate TN 74 Y 4063.

Order :This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mrs.J.ANANDHAVALLI, Advocate for the petitioner and of Mr.P.KOTTAICHAMY, Counsel for State on behalf of the 1st Respondent, and the 2nd Respondent not appeared either in person or by an Advocate, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to stay the operation of the order, dated 05.03.2021 passed in Memo in respect of Crime No.59 of 2019 by the Judicial Magistrate, Eraniel, pending disposal of the main criminal revision.



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

3. The petitioner filed a memo before the trial court pointing out the major differences in respect of the vehicle that was produced by the 2nd respondent, which was given as interim custody to the 2nd respondent. The petitioner stated that the 2nd respondent gave explanation that alterations were made for getting FC and it was accepted by the learned Judicial Magistrate and the memo filed by the petitioner was closed and now, the 2nd respondent attempted to get FC for the disputed vehicle on the basis of the order passed in the memo and hence, the operation of the order passed in the memo by the Judicial Magistrate has to be stayed.

4. But it was opposed on the side of the prosecution. The petitioner stated that the disputed vehicle belonged to him. But the 2nd respondent claims the vehicle as if he is the owner of the vehicle. The petitioner filed a memo seeking direction to produce the disputed vehicle, which was received by the 2nd respondent and the learned Judicial Magistrate ordered the 2nd respondent to produce the vehicle. But the petitioner found some alterations in the vehicle and filed a memo, on 05.03.2021. But the memo was closed by the learned Judicial Magistrate on the ground that the 2nd respondent made alterations for getting FC from the concerned authority.

5. The main contention of the petitioner is that if the 2nd respondent got FC, he will be put to hardship. Only in the main case, it is to be decided whether the memo closed by the Judicial Magistrate is correct or not. The reasons stated in the petition are acceptable.

6. Hence, there shall be an order of **interim stay** as prayed for, till the disposal of the Criminal Revision.

sd/-
01/07/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 JUDICIAL MAGISTRATE, ERANIEL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

3. THE SUB INSPECTOR OF POLICE,
COLACHEL POLICE STATION,
COLACHEL,
KANYAKUMARI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to MRS.J.ANANDHAVALLI, Advocate SR.No.4275

ORDER
IN
CRL MP (MD) No.3503 of 2021
IN
CRL RC (MD) No.346 of 2021
Date :01/07/2021

ER

PK/VR/SAR-II/05.07.2021 : 3P/6C