



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.08.2021
CORAM

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

Crl.R.C (MD)No.426 of 2021

Manikandan

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Navalpattu Police Station,
Tiruchirappalli District.
(Cr.No.71 of 2017)

... Respondent

Prayer : This Criminal Revision has been filed under Section 397 & 401 of Criminal Procedure Code, to set aside the order passed in Cr.M.P.No.2474 of 2021 by the Judicial Magistrate No.III, Tiruchirappalli, dated 17.04.2021 and order interim custody of the VIVO Cell phone seized by the respondent on 05.03.2021 in connection with Cr.No.71 of 2021 to the petitioner.

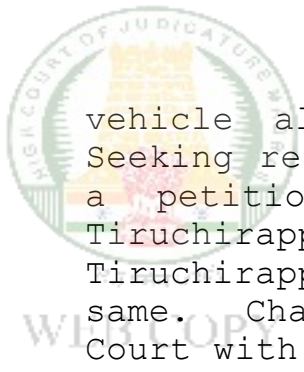
For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.RMS.Sethuraman
Counsel for State Government (Crl.side)

ORDER

This petition is filed to set aside the order dated 17.04.2021 passed in Cr.M.P.No.2474 of 2021 on the file of the Judicial Magistrate No.III, Tiruchirappalli.

2.The case of the petitioner is that on 05.03.2021, the FIR in Crime No.71 of 2021 came to be registered by the respondent police against the petitioner under the provisions of Sections 379, 465, 468 and 471 IPC. On 05.03.2021 at around 2.30 p.m., the Village Administrative Officer had during an inspection of documents pertaining to gravel and sand being transported by the petitioner in a Tipper Lorry bearing Registration No.TN-31-H-6262 found that there were discrepancies in the purported permit issued for mining of the said gravel and sand from the Mining Department and noticed that the same is a fabricated one. He immediately seized the vehicle and the mobile phone of the petitioner herein and proceeded to the respondent police where an FIR came to be lodged in Cr.No.71 of 2021 after due process of law. The said



vehicle along with the mobile phone was taken into custody. Seeking return of the said mobile phone, the petitioner has filed a petition before the learned Judicial Magistrate No.III, Tiruchirappalli. The learned Judicial Magistrate No.III, Tiruchirappalli, by order dated 17.04.2021, has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

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

4.Mr.RMS.Sethuraman, learned counsel for State Government (Crl.side) has strongly opposed to return the mobile phone.

5.On consideration of the documentary evidence, the trial Court has dismissed the petition on the ground that if the property is released, there is a possibility to misuse the same vehicle for similar offence in future and also the petitioner has not produced any document to show that he is the owner of the property. However, Considering the facts and circumstances of the case, this Court is inclined to allow this petition.

6. Accordingly, this Criminal Revision Case is allowed and the order of the learned Judicial Magistrate No.III, Tiruchirappalli in Cr.M.P.No.2474 of 2021 is set aside and the learned Judicial Magistrate No.III, Tiruchirappalli is directed to return mobile phone on the following conditions:

(a)The petitioner shall deposit a sum of Rs.2,000/- (Rupees Two thousand only) to the credit of Crime No.71 of 2021 on the file of the learned Judicial Magistrate No.III, Tiruchirappalli, within a period of one week from the date of receipt of a copy of this order;

(b)The petitioner shall not make any alteration of the mobile phone;

(c)the petitioner shall produce the same before the Court as an when required.

Sd/-

Assistant Registrar (Co)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



1.The Judicial Magistrate No.III,
Tiruchirappalli.

2.The Inspector of Police,
Navalpattu Police Station,
Tiruchirappalli District.

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

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-25002[F] dated 02/08/2021)

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