



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 01.12.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.420 of 2021

Jesu Michael

.. Petitioner

Vs.

The State represented by S.H.O.
Dhanushkodi Police Station,
In Crime No.21 of 2021.

.. Respondent

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.1047 of 2021, dated 05.04.2021, on the file of the District Munsif cum Judicial Magistrate, Rameshwaram and to set aside the same and hand over the Boat bearing No.IND-TN-10-MM-356 as interim custody to the petitioner.

For Petitioner : Mr.D.Balamurugapandi

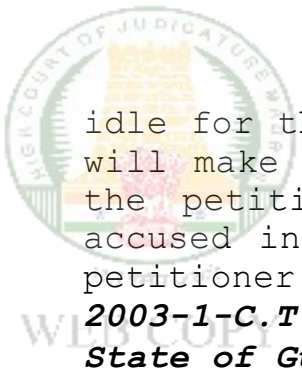
For Respondent : Mrs.K.Asha
Government Advocate

O R D E R

This revision has been filed to set aside the order passed in Cr.M.P.No.1047 of 2021, dated 05.04.2021, on the file of the District Munsif cum Judicial Magistrate, Rameshwaram and to hand over the Boat bearing No.IND-TN-10-MM-356 for interim custody to the petitioner.

2.A Boat bearing registration No.IND-TN-10-MM-356 was seized by the respondent police in Crime No.21 of 2020, under Sections 14 (c) of Foreigners Act, Section 3 (a) r/w. Section 6(a) of Passport Act and Section 111 (b) of Customs Act. The petitioner claiming himself as the owner of the property/Boat filed a petition for return of the vehicle in Cr.M.P.No.1047 of 2021 before the District Munsif cum Judicial Magistrate, Rameshwaram. That petition was dismissed by the trial Court. Against the same, the petitioner has preferred this Revision.

3.On the side of the petitioner, it is stated that the vehicle was seized by the respondent police on 07.03.2020 and is kept



idle for the past two years. Keeping the Boat idle for two years, will make a vehicle useless. The Boat is the only livelihood of the petitioner and family members. The petitioner is not an accused in the case and prayed the vehicle to be returned to the petitioner. A judgment of the Hon'ble Supreme Court reported in **2003-1-C.T.C.175 (Sunderbhai Ambalal Desai and C.M.Mudaliar V. State of Gujarat)** is cited on the side of the petitioner.

4.On the side of the prosecution, it is stated that totally seven accused involved in an offence. The accused Nos.1 to 4 are Tamilians and the Accused Nos.5 to 7 belong to Srilankans. Two Boats were seized by the respondent police. One of the Boat is having Tamilnadu Registration and the other Boat was registered in Srilanka. The accused Nos.1 and 2 are the sons of the petitioner. Only with the knowledge of the petitioner, Accused Nos.1 and 2 used the Boat for smuggling gold and other things. 3.5 Kgs of gold was seized from the Boat. If the Boat is returned to the petitioner, there is a possibility of altering the vehicle and tampering the witnesses and prayed the petition to be dismissed.

5. It is seen that the vehicle / Boat was seized by the respondent police on 07.03.2020 and is kept idle till now. Keeping the vehicle/ Boat idle, will make it useless. The petitioner is not an accused in the case.

6.In the above circumstances, this Court is inclined to allow the Revision. Accordingly, this Criminal Revision Case is allowed and the order passed in Cr.M.P.No.1047 of 2021, dated 05.04.2021, on the file of the District Munsif cum Judicial Magistrate, Rameshwaram, Ramanathapuram District, is hereby set aside and the property/Boat is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(i) The petitioner is directed to deposit the original Registration Certificate before the District Munsif cum Judicial Magistrate, Rameshwaram Ramanathapuram District,

(ii)The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.21 of 2020, on the file of the District Munsif cum Judicial Magistrate, Rameshwaram Ramanathapuram District, within a period of four weeks from the date of receipt of a copy of this order along with a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a like sum;



(iii)The petitioner shall not hypothecate or alienate the Boat and shall not make any alterations in the Boat.

(iv)The petitioner shall produce the Boat before the Court and before the respondent as and when required, by the Court and by the respondent.

(v) The petitioner is directed to execute an undertaking affidavit not to use the Boat for any illegal purpose.

7. If the vehicle is used for any illegal purpose, the order of return of property, automatically, shall stand cancelled.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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 District Munsif cum Judicial Magistrate,
Rameshwaram,Ramanathapuram.

2.The S.H.O.
Dhanushkodi Police Station,

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

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-36881[F] dated 01/12/2021)

Crl. R.C.(MD)No.420 of 2021
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RK(09/12/2021) 3P 5C

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