



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 17.02.2021

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THE HONOURABLE MRS.JUSTICE R.THARANI

Crl. R.C.(MD)No.643 of 2020

N.Marichamy

... Petitioner

Vs.

State by Sub Inspector of Police,
Vembakottai Police Station,
Vembakottai, Sattur,
Virudhunagar District.

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records relating to the petition and order in Cr.M.P.No.1670 of 2020 dated 29.09.2020 in Crime No.259 of 2018 on the file of the Judicial Magistrate No.II, Sattur and to set aside the same.

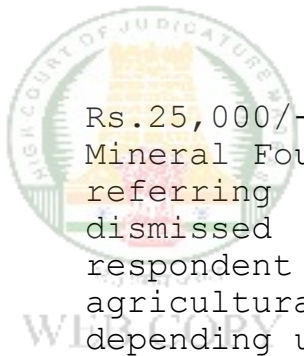
For Petitioner	: Ms.S.Mahalakshmi, Advocate
For Respondent	: Mrs.S.Bharathi
	Government Advocate (Crl. Side)

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1670 of 2020 dated 29.09.2020, on the file of the learned Judicial Magistrate No.II, Sattur.

2.The petitioner claims to be the owner of the tractor and trailer bearing registration Nos.TN-59-Y-1643 and TN-60-4552, which were seized by the respondent Police in Crime No.259 of 2018 for the offence under 379 of IPC and 4(1)(1A), 21(1) of Mines and Minerals Act. The petitioner has filed a petition in Cr.M.P.No.1670 of 2020 before the learned Judicial Magistrate No.II, Sattur 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 learned Judicial Magistrate dismissed the petition on the ground of jurisdiction, whereas this Court in its order dated 28.03.2019, in W.P.(MD)No.7344 of 2019, has directed the petitioner to approach the concerned Magistrate. The petitioner has deposited a sum of



Rs.25,000/- (Rupees Twenty Five Thousand only) before the District Mineral Foundation Trust as per the direction of this Court. Without referring these aspect, the learned Judicial Magistrate has dismissed the petition. The vehicle is in the custody of the respondent from the year 2018 onwards. The vehicle was used only for agricultural purpose. The petitioner is an aged person and he is depending upon the vehicle for his livelihood and prayed the vehicle to be returned to the petitioner.

4.On the side of the respondent, it is stated that as per G.O.(Ms)No.298 (Courts-11) Department dated 13.06.2019, only the special Court is having power to pass orders for return of the properties relating to Mines and Minerals Act. Only on 18.03.2020, the petitioner has filed the petition for return of the property and prayed the petition to be dismissed.

5.It is seen that this Court has passed an order in W.P.(MD) No.7344 of 2019 wherein the petitioner was directed to approach the concerned criminal Court of appropriate jurisdiction. That order was passed on 28.03.2019 that is before the passing of the G.O. After the passing of G.O.(Ms)No.298 (Courts-11) Department dated 13.06.2019, the learned Judicial Magistrate is not having the jurisdiction to pass an order for return of the property and that the petition for return of property was filed only on 18.03.2020.

6.In the above circumstances, the petitioner is directed to approach the special Court for return of the property. On such filing of the petition, the learned Judge, special Court is at liberty to pass suitable order in accordance with law.

7.With the above direction, this Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 No.II, Sattur.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Sub Inspector of Police,
Vembakottai Police Station,
Vembakottai, Sattur,
Virudhunagar District.

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

Copy to:

The Principal District Judge,
Virudhunagar at Srivilliputhur.

**(Copy to be communicated to
The Judge, Special Court)**

Crl. R.C.(MD)No.643 of 2020

MRN

TK/SAR/27.02.2021/3P/5C