



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 08.12.2021

Delivered on : 23.12.2021

WEB COPY

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.702 of 2021

Vayakkattusamy

.. Petitioner/Petitioner

Vs.

State through the
Inspector of Police,
Tirupparankundram Police Station,
Madurai District.
(Crime No.265 / 2021)

.. Respondent/Respondent

Prayer : This Revision Case is filed under Sections 397 and 401 of Cr.P.C., to call for the records in Cr.M.P.No.1454 of 2021, dated 26.08.2021, on the file Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai and to set aside the same.

For Petitioner

: Mr.P.Balamurugan

For Respondent

: Mrs.M.Aasha

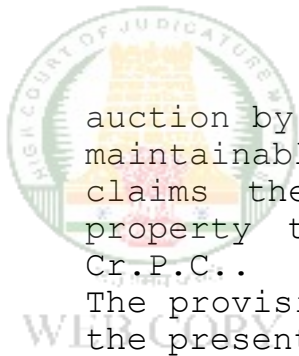
Government Advocate

ORDER

This Criminal Revision has been filed to set aside the order, in Cr.M.P.No.1454 of 2021, dated 26.08.2021, on the file Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai.

2. A vehicle, viz., Tipper lorry, bearing Registration No.TN-76-E-4212 was seized by the respondent police, in Crime No.265 of 2021, under Section 379 of I.P.C and Section 21(1) (4) of Mines and Minerals (Development and Regulations) Act. The petitioner claiming himself as the owner of the vehicle filed a petition in Crl.M.P.No.1454 of 2021 before the Special Court, Madurai, for temporary return of the vehicle. That petition was dismissed by the Special Court, on 26.08.2021. Against the same, the petitioner has preferred this Revision.

3. On the side of the petitioner, it is stated that the vehilce was seized by the respondent police alleged to have been used for transport of Red soil. The Special Court has dismissed the petition with a direction to confiscate the vehilce by public



auction by the Central Nazir. The order of the Special Court is not maintainable, Sections 457 and 458 of Cr.P.C. Only when nobody claims the property, the Court may order for the sale of the property to be disposed by the State, Under Section 458 of Cr.P.C.. Section 459 is applicable only to perishable property. The provisions of Section 457 is also not applicable to the facts of the present case and prayed the impugned order to be set aside.

4. On the side of the petitioner, it is further stated that the Special Court has made a mentioning in paragraph No.6 that the petitioner is transporting and selling river sand, whereas, the petitioner's case is for transporting red soil and not river sand.

5. On the side of the prosecution, it is stated that the vehicle was seized by the respondent police, when the same was loaded with sand in the Government Kanmai. The petitioner is having four previous cases, out of which, three cases are similar in nature. If the vehicle is returned to the petitioner, there is a possibility of the vehicle being used for commission of similar offence again and prayed the petition to be dismissed.

6. The vehicle was seized by the respondent police on 12.07.2021 and the vehicle is kept in the custody of the respondent for the past five months, the value of the vehicle is deteriorating due to climatic conditions. An order for confiscation under Section 458 is premature. Section 459 is not applicable to the property concerned. In the above circumstances, this Court is inclined to return the vehicle with certain conditions.

7. Accordingly, this Criminal Revision Case is allowed and the order, in Cr.M.P.No.1454 of 2021, dated 26.08.2021, on the file Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, is hereby set aside and the vehicle / Tipper lorry 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 shall deposit the original Registration Certificate of the vehicle before the Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai;

(ii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No 265 of 2021 on the file of the Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, within a period of two weeks from the

<https://hcservices.ecourts.gov.in/hcservices/> receipt of a copy of this order along with a



bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with two sureties for a like sum;

(iii)The petitioner is directed to file an undertaking affidavit not to use the vehicle for any illegal activity.

(iv)The petitioner shall not alienate and shall not make any alterations in the vehicle;

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

8. If the vehicle is used for any illegal purpose, the order of return of property, automatically, stands cancelled. With the above directions, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai.

2.The Inspector of Police,
Tirupparankundram Police Station,
Madurai District.

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

+1 CC to M/s.P.BALAMURUGAN, Advocate (SR-40301[F] dated 23/12/2021)

Crl. R.C.(MD)No.702 of 2021
23.12.2021

ARK(CO)

KB(31.12.2021) 3P 5C

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