



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 17.03.2021

Delivered On : 20.04.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.686 of 2020

Kaleeswaran

.. Petitioner/3rd party

Vs.

State Represented by
Inspector of Police,
Poovanthi Police Station,
Sivagangai District - 630611.
(In Crime No:16 of 2018)
Respondent/Complainant

..

Prayer : This Criminal Revision Case is filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the impugned order passed by the learned Judicial Magistrate Court II, Sivagangai in Cr.M.P.No.3579 of 2020 dated 14.10.2020 in C.C.No.524 of 2019, and consequently release the petitioner's vehicle No.TN-67-A-1747 within a stipulated time that may be fixed by this Court.

For Petitioner

: Mr.R.Senthil kumar

For Respondent

: Mrs.S.Bharathi

Government Advocate (Crl.

Side)

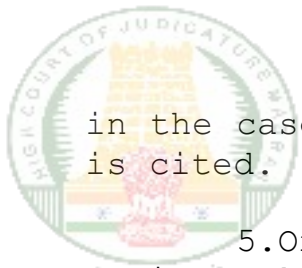
ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.3579 of 2020 dated 14.10.2020, on the file of the learned Judicial Magistrate No.II, Sivagangai.

2.The respondent seized a lorry bearing Registration No.TN-67-A-1747 and produced the property before the Court. Subsequently, the petitioner claiming himself as the owner of the lorry, has approached the learned Judicial Magistrate No.II, Sivagangai, by filing a petition for return of the lorry and the learned Judge dismissed the petition in Crl.M.P.No.3579 of 2020 dated 14.10.2020. Against which, the petitioner has preferred the Criminal Revision Case.

3.On the side of the petitioner, it is stated that a false case has been foisted against the petitioner. If the vehicle is kept in the open, the value of the vehicle will be deteriorated by the exposure to the climatic condition and prayed the vehicle to be returned to the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/> In support of his contention, the judgment of this Court



in the case of **Sengol v. The State** in **Crl.O.P. (MD)No.14409 of 2011** is cited.

5.On the side of the respondent, it is stated that the case against the petitioner is sand theft and that the offence alleged is serious in nature. The petitioner has been illegally carrying out mining for his personal gain. There is possibility for the petitioner to alter or change the physical structure of the alleged vehicle and also indulge in similar criminal activities and prayed the petition to be dismissed.

6.The vehicle was seized on 10.02.2018 and is kept in open space for the past two years and that the vehicle will become useless by the exposure to climatic conditions.

7.In view of the same, the learned Judge is directed to return the vehicle to the petitioner for interim custody subject to the confiscation proceedings on the following conditions:

(i)The petitioner shall deposit the original Registration Certificate of the vehicle with the learned Judicial Magistrate No.II, Sivagangai ;

(ii)The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.16 of 2018 on the file of the learned Judicial Magistrate No.II, Sivagangai within a period of two weeks from the date of receipt of a copy of this order ;

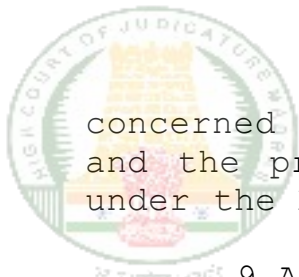
(iii)The petitioner is directed to execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Sivagangai;

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

(v)The petitioner shall produce the vehicle before the Court and before the respondent as and when required and this order is subject to the final order to be passed in the confiscation proceedings ;

(vi)If any of the aforesaid conditions are violated, this order automatically stands cancelled.

8.It is seen that the case was registered only under Sections 379 and 427 of IPC and not under MMDR Act. In view of the above, the District Collector is directed to depute a Revenue officials not below the rank of Tahsildar to file a private complaint before the Special Court within a period of one month from the date of receipt of copy of this order. On such complaint, the respondent is directed to alter the charge within a period of one month from the date of filing of the private complaint. The



concerned Special Court is directed to club both the police case and the private complaint together and to take the case on file under the MMDR Act and to dispose the same in accordance with law.

9. Accordingly, this Criminal Revision Case is allowed. The Registry is directed to send the copy of the order immediately to the Special Court and the concerned District Collector and to the concerned Judicial Magistrate.

Sd/-

Assistant Registrar (Cs-I)

// 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 Judge,
Special Court MMDr ACT
Sivagangai District.
2. The District Collector, Sivagangai.
3. The Judicial Magistrate No.II, Sivagangai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Inspector of Police,
Poovanthi Police Station
Sivagangai District.

Crl. R.C. (MD) No. 686 of 2020
20.04.2021

SRK (CO)
KB(30.04.2021) 3P 6C