



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 25.11.2021

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WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.715 of 2021

Kalyani

.. Petitioner

Vs.

1.The state Represented by its,
The Inspector of Police,
Sindupatti Police Station,
Madurai.
Crime No.55 of 2021

2.The Branch Manager,
Sir Ram Transport Finance Co. Ltd.,
Bye-Pass Road,
Madurai.

.. Respondents

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the order dated 04.08.2021 made in Criminal Miscellaneous petition No.1004 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 and allow this revision petition and the return the vehicle JCB bearing registration No.TN 61 A 9588 seized in connection with crime No.55 of 2021 on the file of the first respondent Police.

For Petitioner	: Mr.S.Balaji
For 1 st Respondent	: Mrs.K.Asha
	Government Advocate
For 2 nd Respondent	: No Appearance

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1004 of 2021 dated 04.08.2021, on the file of the Special Court to deal with the cases under the Mines and Minerals (D&R) Act, Madurai, to grant interim custody of the JCB bearing Registration No.TN-61-A-9588 to the petitioner.

2.The petitioner claims to be the owner of the JCB bearing registration No.TN-61-A-9588, which was seized by the respondent Police in Crime No.55 of 2021 for the offence under Sections 379 of IPC and Section 21(5) of Mines and Minerals (D&R) Act, has filed a petition in Cr.M.P.No.1004 of 2021 before the Special Court to deal



with the cases under the Mines and Minerals (D&R) Act, Madurai, for return of the vehicle. The petition was dismissed by the trial Court. Against which, the petitioner has preferred this revision case.

3.On the side of the petitioner, it is stated that the vehicle was seized on 18.03.2021 and is kept in the open space. The allegation is that the vehicle was used for transporting half unit of gravel. If the vehicle is left in open place, the value of the vehicle will be deteriorated due to climatic conditions and prayed the vehicle to be returned for interim custody.

4.On the side of the 1st respondent, it is stated that confiscation proceedings was initiated. The petitioner is having four previous cases. Out of the four previous cases, two are similar in nature. If the vehicle is returned to the petitioner again, there is possibility for the vehicle being used for commission of similar offence and prayed the petition to be dismissed.

5.A perusal of the records reveals that the impugned order is under Sections 457 and 458 of Cr.P.C., to confiscate the vehicle during the pendency of the case. Applying Sections 457 and 458 of Cr.P.C., in this case before the completion of the trial is unwarranted.

6.Leaving the vehicle in the open place exposing it to climatic conditions, will make the vehicle useless. Hence, this Criminal Revision Case is allowed and the order of the learned Judge, Special Court to deal with the cases under the Mines and Minerals (D&R) Act, Madurai in Cr.M.P.No.1004 of 2021 is set aside and the learned Judge is directed to return the JCB to the petitioner for interim custody subject to the confiscation proceedings on the following conditions:

(i)The petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of Crime No.55 of 2021 on the file of the learned Judge, 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 date of receipt of a copy of this order ;

(ii)The petitioner is directed to execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) with two sureties, each for a like sum to the satisfaction of the learned Judge, Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai ;

(iii)The petitioner shall deposit the original Registration Certificate of the vehicle with the



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

(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)The petitioner shall not use the vehicle for commission of any offence

(vii)If the aforesaid conditions are not complied, the order of interim custody of vehicle stands automatically cancelled.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

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 to deal with the cases under the Mines and Minerals (D&R) Act,
Madurai.
- 2.The Inspector of Police,
Sindupatti Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. BALAJI, Advocate (SR-35928[F] dated 25/11/2021)

Crl. R.C.(MD)No.715 of 2021
25.11.2021

SK(CO)

KB(10.12.2021) 3P 5C

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