



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 09.02.2021

Delivered On : 26.04.2021

WEB COPY

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.706 of 2020

Muthukrishnan

.. Petitioner/3rd Party

Vs.

The State rep. by
The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District - 630 610
(In Crime No.97 of 2019)

.. Respondent/Complainant

Prayer : This criminal revision case filed under Section 397 r/w. Section 401 of Cr.P.C., to set aside the impugned order passed by the Judicial Magistrate Court, Thiruppuvanam and consequently release the petitioner's vehicle in TATA ACE No.TN-58-AD-0435, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthil Kumar

For Respondent : Mrs.S.Bharathi
Government Advocate

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 16.10.2020, made in Cr.M.P.No.879 of 2020 on the file of the Judicial Magistrate Court, Thiruppuvanam.

2.A vehicle, viz., TATA ACE, bearing Registration No.TN-58-AD -0435 was seized by the respondent police in Crime No.97 of 2019, under Sections 21(1) of Mines and Minerals Act and 379 I.P.C. The petitioner claiming himself as the owner of the vehicle, filed a petition for return of the vehicle before the Judicial Magistrate, Tiruppuvanam, in Cr.M.P.No.879 of 2020. That petition was dismissed by the lower Court. Against the same, the petitioner preferred this Revision.



3. On the side of the revision petitioner, it is stated that already charge sheet was filed and the same was taken on file as C.C.No.32 of 2020. The charge sheet was filed only under Section 379 I.P.C. and this Court, in Crl.O.P.(MD)No.12926 of 2020, has given a direction to the Judicial Magistrate, Tiruppuvanam, to dispose of the case within a period of six months. But, in a mechanical manner, the Judicial Magistrate has dismissed the petition and prayed the vehicle to be returned to the petitioner.

4. On the side of the respondent, it is stated that after G.O.No.298, only Special Court is having jurisdiction to dispose of the property and the Judicial Magistrate has no power. Already the Division Bench of this Court has given instructions to the effect that the petitioner has to approach only Special Court, since the F.I.R is registered under Section 21(1) of Mines and Minerals Act and Section 379 I.P.C.

5. It is seen that the F.I.R. was registered under Section 21(1) of Mines and Minerals Act and Section 379 I.P.C., for the reasons best known to the respondent, the respondent has deleted the offence under Section 21(1) of Mines and Minerals Act and filed a charge sheet only under Section 379 I.P.C. Already this Court in **Muthu Vs. District Collector and others** reported in **C.D.J 2018 MHC 7179** and the Hon'ble Apex Court in **Sundarbhai Ambalal Desai Vs. State of Gujarat** reported in **C.D.J. 2003 SC 061** has given clear instructions regarding illegal transport of sand. The F.I.R. clearly shows that the vehicle was involved in river sand theft.

6. Filing charge sheet deleting the offence under Section 21 (1) of Mines and Minerals Act, could not be accepted. Hence, this Court direct the Commissioner to take up the matter for re investigation and to file a final report. 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.

7. Accordingly, this Criminal Revision Case is dismissed. The petitioner is at liberty to approach the Special Court for return of the property. The Registry is directed to send the copy
<https://hdcservices.courts.gov.in/hdcservices>



of the order immediately to the Special Court and the concerned District Collector and to the concerned Judicial Magistrate.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

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 Judicial Magistrate,
Thiruppuvanam.
- 2.Do through:
The Chief Judicial Magistrate,
Sivagangai District.
- 3.The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

- 1.The District Collector,
Sivagangai District.
- 2.The Commissioner of Police,
Madurai.

Crl. R.C.(MD)No.706 of 2020
26.04.2021

KM(25.05.2021) 3P 7C