



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C. (MD)No.790 of 2021

WEB COPY

Sharmila

... Petitioner/Owner of the vehicle

Vs.

1.The State through,
The Inspector of Police,
Nainarkoil Police Station,
Ramanathapuram District.
(Crime No.74 of 2021)

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Assistant Director,
Geology and Mining Department,
Collectorate Complex,
Ramanathapuram,
Ramanathapuram District.

4.The Tahsildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

...Respondents/Respondents

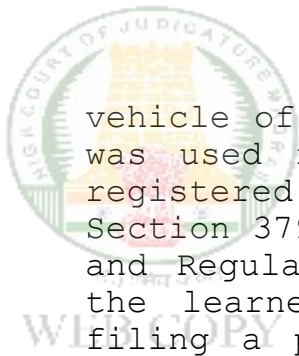
Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the impugned condition No.3 made in the impugned order dated 24.08.2021 in Crl.M.P.No.1553 of 2021 on the file of the learned Principal Sessions Judge, Ramanathapuram and consequently to return the petitioner's vehicle, namely JCB, bearing registration No.TN-55-BZ-3438 to the petitioner forthwith.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.side)

O R D E R

This Criminal Revision Case has been filed to set aside the condition No.3 made in the impugned order dated 24.08.2021 in Crl.M.P.No.1553 of 2021 on the file of the learned Principal Sessions Judge, Ramanathapuram.

2.The petitioner claims to be the owner of the JCB bearing Registration No.TN-55-BZ-3438. The respondent police intercepted the



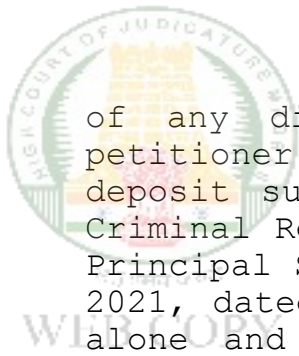
vehicle of the petitioner and seized the same on the ground that it was used for carrying illegal sand without any valid permit and registered a case in Crime No.74 of 2021 for the offence under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act. Subsequently, the petitioner has approached the learned Principal Sessions Judge, Ramanathapuram, by way of filing a petition in Crl.M.P.No.1553 of 2021 for release of the vehicle and the learned Principal Sessions Judge has allowed the petition filed by the petitioner by its order, dated 24.08.2021, by imposing condition No.3 directing the petitioner to remit a sum of Rs.2,50,000/- as costs within a period of two weeks from the date of receipt of a copy of the order, by way of an individual deposit in favour of the District Legal Services Authority, Ramanathapuram, who shall receive the said amount as 'Environmental Fund' and make use of the said amount for the purposes mentioned in the order passed by the Hon'ble Madurai Bench of Madras High Court in **CRP (NPD) No.1643 of 2010, dated 20.06.2018 [D.Govindasamy Vs. L.Ganesh Naidu (Deceased) and 2 others]**. Further, the petitioner shall produce the receipt for such remittance at the time of furnishing sureties before the trial Court. Challenging the said order passed by the trial Court, the petitioner is before this Court with this criminal revision.

3.Heard the learned counsels appearing on either side and perused the materials available on record.

4.The only grievance of the petitioner is that condition No.3 imposed by the learned Principal Sessions Judge, Ramanathapuram, is onerous.

5.Now, on considering the grievance addressed by the learned counsel appearing on behalf of the petitioner with the relevant records, it would appear that the trial Court while at the time of passing the impugned order directed the petitioner to remit a sum of Rs.2,50,000/- as costs within a period of two weeks. In respect to the said condition, the learned counsel appearing for the petitioner would submit that the petitioner being the first offender not having any source to remit such a huge amount by way of complying the condition. In such circumstances, on considering the other factors though the petitioner was arrayed as an accused in the petition mentioned case, it seems while at the time of occurrence, the driver of the vehicle alone driven the vehicle. Therefore, it would necessary to see whether the alleged occurrence had happened with the knowledge of the petitioner or not. Further, as of now, the case is under investigation and therefore, it would not possible to find out the same immediately in near future.

6. In the said circumstances, if the vehicle is parked in an open place, due to natural calamities the vehicle got damaged and thereby the value of the same diminished. Further, in the absence



of any direct evidence in respect of the involvement of the petitioner in the alleged occurrence directing the petitioner to deposit such amount is too harsh. Hence, in view of that, this Criminal Revision Case is partly allowed. The order of the learned Principal Sessions Judge, Ramanathapuram, made in Crl.M.P.No.1553 of 2021, dated 24.08.2021 is modified in respect of the condition No.3 alone and it is modified to the effect that the petitioner is directed to remit a sum of Rs.1,00,000/- (Rupees One Lakh only) as costs within a period of two weeks from the date of receipt of a copy of this order, by way of an individual deposit in favour of the District Legal Services Authority, Ramanathapuram, who shall receive the said amount as 'Environmental Fund' and make use of the said amount for the purposes mentioned in the order passed by the Hon'ble Madurai Bench of Madras High Court in **CRP (NPD) No.1643 of 2010, dated 20.06.2018 [D.Govindasamy Vs. L.Ganesh Naidu (Deceased) and 2 others]**. Further, the petitioner shall produce the receipt for such remittance at the time of furnishing sureties before the trial Court. In respect of other conditions, the order of the learned Principal Sessions Judge, Ramanathapuram, shall remain unaltered.

Sd/-

Assistant Registrar (CS-III)

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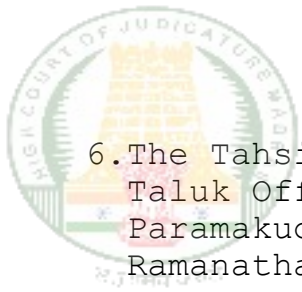
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Sub Assistant Registrar(CS)

Am

To:-

- 1.The Principal Sessions Judge,
Ramanathapuram.
- 2.The District Legal Services Authority,
Ramanathapuram.
- 3.The Inspector of Police,
Nainarkoil Police Station,
Ramanathapuram District.
- 4.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.
- 5.The Assistant Director,
Geology and Mining Department,
Collectorate Complex,
Ramanathapuram,
Ramanathapuram District.



6.The Tahsildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

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

+1 CC to M/s.M.S. JEYAKARTHIK, Advocate (SR-33648[F]
dated 02/11/2021)

CrI.R.C. (MD) No.790 of 2021
02.11.2021

SJ(CO)
GC/PM(12.11.2021) 4P 9C