



WEB COPY

Crl.R.C.(MD) No.793 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**
Crl.R.C. (MD)No.793 of 2021

Avul Hameed Yasin

... Petitioner/ Petitioner

Vs.

- 1.The State rep. by
The Inspector of Police,
Uchipuli Police Station,
Ramanathapuram District.
Crime No.335 of 2021.
- 2.The Revenue Divisional Officer,
Ramanathapuram District.
- 3.The Assistant Director,
Geology and Mining Department,
Collectorate Complex,
Ramanathapuram,
- 4.The Tahsildar,
Taluk Office,
Ramanathapuram.

... 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 modify the condition Nos.2 and 3 in the order dated 08.09.2021 in Crl.M.P.No.1782 of 2021 on the file of the learned Principal Sessions Judge, Ramanathapuram.

For Petitioner : Mr.A.Ananda Raj
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 Nos.2 and 3 made in the impugned order dated 08.09.2021 in Crl.M.P.No.1782 of 2021 on the file of the learned Principal Sessions Judge, Ramanathapuram.



2.The petitioner claims to be the owner of the Tractor bearing Registration No.TN-65-AL-1676. 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.335 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.1782 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 08.09.2021, by imposing condition No.3 directing the petitioner to remit a sum of Rs.60,000/- 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, directed the petitioner shall execute a bond for a sum of Rs.1,00,000/- with two sureties for like sum to the satisfaction Court. One surety shall be the blood relative of the petitioner. Challenging the said order passed by the learned Principal Sessions Judge, 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 Nos.2 and 3 imposed by the learned Principal Sessions Judge, Ramanathapuram, are 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.60,000/- 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.1782 of 2021, dated 08.09.2021 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.40,000/- (Rupees Forty Thousand 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.

7. Now on going through the impugned order, it seems that viz., in condition No.2, the learned Principal Sessions Judge directed the petitioner to execute a bond for a sum of Rs.1,00,000/- with two sureties, in which, one surety shall be the blood relative of the petitioner. Now, the petitioner wants to modify the said condition. However, considering the facts and circumstances of the case and the gravity of the offence, this Court is not inclined to modify the said condition. In view of the above, in respect to other conditions, the order of the learned Principal Sessions Judge, Ramanathapuram, shall remain unaltered.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To:

- 1.The Principal Sessions Judge,
Ramanathapuram.
- 2.The Inspector of Police,
Uchipuli Police Station,
Ramanathapuram District.
- 3.The Revenue Divisional Officer,
Ramanathapuram District.
- 4.The Assistant Director,
Geology and Mining Department,
Collectorate Complex,
Ramanathapuram,
- 5.The Tahsildar,
Taluk Office,
Ramanathapuram.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Chairman,
District Legal Services Authority,
Ramanathapuram.

Cr1.R.C. (MD) No.793 of 2021
02.11.2021

MGJ/JGB(17.11.2021) 4P 8C