



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 25.11.2021

CORAM

THE HONOURABLE MRS.JUSTICE R. THARANI

Crl. R.C.(MD)No.837 of 2021

P.Shanmugam

... Petitioner

Vs.

The State Rep. by its,
The Inspector of Police,
Mayanoor Police Station,
Karur District.
(Crime No.535 of 2021)

... Respondent

Prayer: This criminal revision case is filed under Sections 397(1) r/w. 401 of Cr.P.C., to call for the records and to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Krishnarayapuram in Cr.M.P.No.300 of 2021 dated 29.10.2021.

For Petitioner	: Mr.G.Sridharan
For Respondent	: Mrs.K.Asha Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.300 of 2021 dated 29.10.2021, on the file of the learned District Munsif cum Judicial Magistrate, Krishnarayapuram, to grant interim custody of JCB bearing Registration No.TN-32-J-4532 to the petitioner.

2.The petitioner claims to be the owner of the JCB bearing registration No.TN-32-J-4532, which was seized by the respondent Police in Crime No.535 of 2021 under Section 379 of IPC. The petitioner has filed a petition in Cr.M.P.No.300 of 2021 before the learned District Munsif cum Judicial Magistrate, Krishnarayapuram, 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 offence is only under Section 379 of IPC. The vehicle was seized for transporting gravel in patta land. The complainant is only a private person. Only due to previous enmity, a false case was foisted against the petitioner. The vehicle is kept in the open place. The value will be deteriorated due to the climatic conditions and prayed the vehicle to be returned for interim custody.



4. On the side of the respondent, it is stated that the petitioner is having previous cases. The petitioner got return of the vehicle from the Court and again the vehicle was used for commission of same offence again. Even R.C. Book was deposited before the Court in the previous case and prayed the petition to be dismissed. It is further stated that an alteration report was filed and the offence under Section 21(1) of Mines and Minerals Act was included in the FIR.

5. It is seen that the petitioner is having a previous case of similar nature. But the JCB vehicle was not seized by the police in the earlier case. The value of the JCB will be spoiled if the vehicle is kept in open place. The vehicle was seized by the police on 30.08.2021 and the vehicle is kept open for the past four months.

6. Hence, this Criminal Revision Case is allowed and the order of the learned District Munsif cum Judicial Magistrate, Krishnarayapuram in Cr.M.P.No.300 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.535 of 2021 on the file of the learned Principal District and Sessions Judge, (Special Court to deal with offences under the Mines and Minerals Act), Karur, 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 Principal District and Sessions Judge, (Special Court to deal with offences under the Mines and Minerals Act), Karur ;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle with the learned Principal District and Sessions Judge, (Special Court to deal with offences under the Mines and Minerals Act), Karur ;

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

(v) The petitioner shall not use the vehicle

https://hcservices.ecourt.gov.in/hcservices/ Commission of any offence ;



(vi)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 ;

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

Sd/-

Assistant Registrar (CO)

// 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 Principal District and Sessions Judge,
(Special Court to deal with offences under
the Mines and Minerals Act),
Karur.

2.The District Munsif cum Judicial Magistrate,
Krishnarayapuram.

3.The Inspector of Police,
Mayanoor Police Station,
Karur District.

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

+1 CC to M/s.G.SRIDHARAN, Advocate (SR-35946[F] dated 25/11/2021)

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25.11.2021

RS (03.12.2021) 3P 6C