



Crl.R.C.No.532 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.10.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.532 of 2022
and
Crl.O.P.No.11952 of 2022

Crl.R.C.No.532 of 2022

The State of Tamil Nadu,
Represented by
The Inspector of Police,
Sunguvarchatram Police Station.

... Petitioner

Vs.

1. Shaik Mahaboob Basha,
S/o, Shaik Khaja Pir,
No.39/107-138, Tagore Nagar,
Rayachoty, YSR Kadappa,
Andhara Pradesh – 516 269.

2. ICICI Bank Limited,
Cuddapah Branch,
Tourism House (APTDC),
Cuddapah,
Andhra Pradesh – 516 001.

... Respondents



Crl.R.C.No.532 of 2022

Prayer:Criminal Revision Petition filed under Sections 397 & 401 of Cr.P.C., against the order of the learned Principal District and Sessions Judge, Chengalpattu at Kanchipuram in Crl.M.P.No.340 of 2022 dated 06.04.2022.

For Petitioner : Mr.S.Sugendran
Additional Public Prosecutor

For R1 : Mr.S.Gurumurthy

For R2 :Notice served
No appearance

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Shaik Mahaboob Basha,
S/o, Shaik Khaja Pir,
No.39/107-138, Tagore Nagar,
Rayachoty, YSR Kadappa,
Andhara Pradesh – 516 269.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by
The Inspector of Police,
Sunguvarchatram Police Station,
Kanchipuram District.

2. ICICI Bank Limited,
Cuddapah Branch,
Represented by its Manager,
Tourism House (APTDC),
Cuddalore, Andhra Pradesh – 516 001.

... Respondents



Crl.R.C.No.532 of 2022

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent police to return the petitioner's vehicle JCB 3DX PLUS-2WD bearing Registration Number AP-39-LT-0080 as per order of the learned Principal District and Sessions Judge of Kancheepuram District at Chengalpattu in Crl.M.P.No.340 of 2022 dated 06.04.2022.

For Petitioner : Mr.S.Gurumurthy
For R1 : Mr.Mr.S.Sugendran
Additional Public Prosecutor
For R2 : No appearance

COMMON ORDER

Criminal Revision Petition has been filed by the petitioner police challenging the order dated 06.04.2022 passed in Crl.M.P.No.340 of 2022 on the file of the learned Principal District and Sessions Judge, at Kanchipuram at Chengalpattu.

2. Criminal Original Petition has been filed by the first respondent in Crl.R.C.No.532 of 2022 to direct the petitioner police to return the vehicle as per order dated 06.04.2022 passed in Crl.M.P.No.340 of 2022 on the file of the learned Principal District and Sessions Judge of Kancheepuram District at Chengalpattu.



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3. The petitioner police registered the case against the accused for the offence under Sections 430, 379 of IPC and 21(l) of Mines and Minerals (Development and Regulation) Act in Crime No.14 of 2022. During investigation, vehicle JCB 3DX PLUS-2WD bearing registration number AP-39-LT-0080 was seized by the respondent police and pending investigation, the owner of the vehicle filed a petition in Crl.M.P.No.340 of 2022 under Section 451 Cr.P.C before the Principal District and Sessions Court, Kancheepuram District at Chengalpattu, seeking interim custody of the vehicle. The abovesaid petition was allowed on condition. Challenging the said order, the State has preferred this Criminal Revision Petition.

4. Learned Additional Public Prosecutor appearing for the Criminal Revision Petitioner would submit that the learned Sessions Judge without considering the stage of investigation, ordered return of property on the ground that no confiscation proceeding has been initiated, which warrants interference.



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5. Learned counsel appearing for the first respondent would submit that the vehicle was not involved in the alleged offence and the same was seized by the petitioner police from the work place.

6. Heard the learned Additional Public Prosecutor appearing for the petitioner and the learned counsel appearing for the first respondent and perused the materials available on record.

7. Admittedly, case was registered against one Guna @ Gunasekaran, who is the driver of the JCB 3DX PLUS-2WD bearing registration number AP-39-LT-0080. First respondent is the owner of the vehicle. After the investigation only it will be ascertained that whether the vehicle was involved in the offence under Section 430, 379 IPC r/w 21(l) of Mines and Minerals Act or not. In this case, investigation is at the initial stage and charge sheet has also not yet been filed. Therefore, while deciding the petition under Section 451 Cr.P.C., the Court cannot conduct roving enquiry as to whether the commission of offence has been made out or not. The investigation is in the preliminary stage and if the vehicle is returned to the



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first respondent, he would continue to indulge in such activities. Hence the order passed by the Sessions Court is liable to be set aside.

8. Considering the fact that the date of offence is 05.01.2022, Petitioner police is directed to complete the investigation and file a charge sheet within a period of two months preferably on or before 15.12.2022, failing which, the Criminal Revision Petition shall stand dismissed and the order passed by the learned Sessions Judge would come into force automatically without further reference to this Court.

9. With the abovesaid direction, Criminal Revision Case is allowed. Consequently, connected Criminal Original petition filed by the first respondent is dismissed.

26.10.2022

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Index:yes/No
Internet:yes/No



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To

1. The Principal District and Sessions Judge,
Kancheepuram District at Chengalpattu.
2. The Inspector of Police,
Sunguvarchatram Police Station,
Kanchipuram District.
3. ICICI Bank Limited,
Cuddapah Branch,
Represented by its Manager,
Tourism House (APTDC),
Cuddalore,
Andhra Pradesh – 516 001.
4. The Public Prosecutor,
High Court,
Chennai.



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P.VELMURUGAN, J.

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