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Crl.R.C.No.878 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.878 of 2022

Senthilkumar

... Petitioner

Vs.

The state represented by
Inspector of Police,
Gangavalli Police Station,
Salem.

(Crime No.443 of 2020)

... Respondent

Prayer: Criminal Revision Case filed under Section 397(1) read with 401 Cr.P.C, to set aside the order passed in Crl.M.P.No.2521/2021 by the Judicial Magistrate II, Attur, dated 11.11.2021 and consequently direct the respondent to release and hand over the vehicle Mahindra and Mahindra Bolero car bearing Reg. No.TN77 K 4783 to the petitioner.

For Petitioner : Mr.M.Rajkumarfranklin
For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)

ORDER

This revision is filed aggrieved by the order of the Judicial Magistrate II, Attur, in Crl.M.P.No.2521/2021, dated 11.11.2021 in and by which, the prayer of the petitioner for interim custody of the vehicle being Mahindra and Mahindra bearing registration No.TN77 K 4783 is rejected.



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2.The learned Judicial Magistrate had rejected the prayer on the ground that the offence is triable by the Sessions. It is seen that the FIR is registered only under Section 379 IPC and the said findings of the learned Magistrate is unsustainable.

3.In that view of the matter, considering the fact that the petitioner is the lawful owner of the vehicle and that the vehicle cannot be allowed to rot and kept wasted, I am of the view that the petitioner is entitled to return of the vehicle. However, the allegation is that the vehicle was found to be involved in transporting 1 unit of river sand illegally. Therefore, the condition of non-refundable deposit of a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the District Mining Fund maintained by the District Collector is ordered.

4.Accordingly, the Criminal Revision is ordered on the following terms:-

(i) The order of the Judicial Magistrate II, Attur, in Crl.M.P.No.2521/2021, dated 11.11.2021, is set aside.



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(ii) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Mining Funds of the District Collector, Salem. It is made clear that the deposit amount of Rs.25,000/- is not refundable.

(iii) The petitioner will be entitled to the return of the vehicle that on his undertaking to duly carry out the name transfer and thereafter produce the copy of the Registration Certificate to the Learned Magistrate, in the name of the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(iv) The petitioner will be entitled for return of the vehicle viz., Mahindra and Mahindra Bolero Car, bearing Registration No.TN 77 K 4783, having Chassis No.MA1ZU2TBKJ1F50196, Engine No.TBJ1F58316.

(v) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the



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Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(vi) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(vii) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the Court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(viii) The petitioner shall participate in the confiscation proceedings if any, initiated and shall produce the vehicle before the confiscation authority. This order is subject to the confiscation proceedings.

(ix) The petitioner shall not indulge in similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the



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present vehicle (Mahindra and Mahindra Bolero Car, bearing Registration No.TN 77 K 4783, having Chassis No.MA1ZU2TBKJ1F50196, Engine No.TBJ1F58316), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produced before the Court concerned.

08.07.2022

sli

Index : Yes/No

Internet: Yes/No

Speaking/Non-speaking order

To

- 1.The Judicial Magistrate II, Attur.
- 2.The Public Prosecutor, High Court of Madras.
- 3.The Inspector of Police,
Gangavalli Police Station,
Salem.



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D.BHARATHA CHAKRAVARTHY, J.

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