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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.990 OF 2021

Periyasamy

... Petitioner

.Vs.

The State represented by,
The Inspector of Police,
Thalaivasal Police Station,
Salem.

(Crime No.322 of 2021)

... Respondent

PRAYER:-

The Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, pleaded to set aside the order passed in Crl.M.P.No.2336 of 2021 by the Judicial Magistrate-II, Attur dated 29.09.2021 and consequently, direct the respondent to release and hand over the vehicle Maruti Ertica Car bearing Reg.No.TN 77 E 6657 to the petitioner.

For Petitioner : Mr.M.Rajkumar Franklin

For Respondent : Mr.S.Sugendran
Government Advocate (Crl. Side)

O R D E R

(This case has been heard through video conferencing)

The Criminal Revision Petition has been filed against the dismissal of the petition seeking for return of property.

2. The submissions of the learned counsel appearing for the petitioner is as under:-

(a) The petitioner is the power of Attorney holder and the owner of the vehicle Maruti Ertica Car bearing Registration



No.TN-77-E-6657. The respondent/Police had seized the vehicle in connection with the Crime No.322 of 2021, registered for the offence under Section 379 IPC. The allegation against the petitioner is that he had used the vehicle to spy and watch over the movements of the respondent/police, who were taking action against the illegal sand mining.

(b) The Trial Judge, wrongly holding that the vehicle was used for illicit transportation of sand, had dismissed the application filed in Crl.M.P.No.2336 of 2021 vide order dated 29.09.2021. No recovery was made from the vehicle and the vehicle was seized only on the basis of suspicion. The seized vehicle has been parked in the open exposed to vagaries of weather and thereby the value of the vehicle is diminishing day by day. The petitioner undertakes that the alleged vehicle will not be used for any other illegal activities in future and that the vehicle would be produced before the respondent or the confiscation authorities as and when required for and thereby he would seek to set aside the impugned order and direct the release of the vehicle.

3. Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that the vehicle was used by the petitioner to spy the officials and watch over their functions. He would further submit that nothing has been recovered from the vehicle and the vehicle has been seized on suspicion as it is used for spying and watching the movements of officials.

4. Heard the learned counsel and perused the materials available on record.

5. Taking into consideration the fact that, admittedly, no recovery of minerals has been made from the vehicle and the vehicle has been seized by the respondent/Police only on suspicion, this court is of the opinion that the interim custody of the vehicle may be granted to the petitioner.

6. In view of the above, the order dated 29.09.2021 in Crl.M.P.No.2336 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the learned Judicial Magistrate is directed to hand over the interim custody of the vehicle to the petitioner subject to the following conditions:

a) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Attur.



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b) The petitioner shall produce the Original RC book of the vehicle in question before the concerned Trial Court and file an affidavit of undertaking that he will not dispose or alter physical features of the vehicle and that he will produce the vehicle before the Trial Court as when required by the Trial Court or the Investigating Agency.

c) The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders.

7. The concerned authority shall proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

CRL.R.C.NO.990 OF 2021

MT(CO)
PBS/15/02/2022