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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-02-2022

CORAM

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.R.C.NOS.1122, 1024, 1028, 1124 & 1125 OF 2021

1. Gandhi @ K.P.Karunamoorthy
... Petitioner in Crl.R.C.No.1122 of 2021
2. Sumathi
... Petitioner in Crl.R.C.No.1024 of 2021
3. Ilaiyaraja
... Petitioner in Crl.R.C.No.1028 of 2021
4. P.V Spinning Mill India Pvt Ltd.,
Rep by its Managing Director,
Gandhi @ K.P.Karunamoorthy,
Son of Late K.Palanisamy,
No. 35/5, Kovai Main Road,
P.V. Kongu Nagar, Rangasamuthiram,
Sathyamangalam Taluk,
Erode District.
... Petitioner in Crl.R.C.No.1124 of 2021
- 5.Rangaraj
... Petitioner in Crl.R.C.No.1125 of 2021

Vs.

The State,
Rep by Inspector of Police,
Puliyampatti Police Station,
Erode District.

...Respondent in all Crl.R.Cs

Prayer in Crl.R.C.No.1122 of 2021: Criminal Revision Petition is filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate Court, Sathyamangalam at Erode District in C.M.P.No.2008 of 2021 dated 13.12.2021 and to release the



vehicle namely Tipper Lorry in bearing Reg.No. TN 19 B 0515, Chassis No.MB1HTDJCAHWA8489, Engine No.WAH611988, by the respondent and thus render justice.

Prayer in CrI.R.C.No.1024 of 2021: Criminal Revision Petition is filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate Court, Sathyamangalam at Erode District in C.M.P.No.1838 of 2021 dated 26.11.2021 and to release the vehicle namely Agricultural Tractor with Trailer, Escorts Ltd., Bearing Registration No.TN 36 BW 1777 confiscated by the respondent.

Prayer in CrI.R.C.No.1028 of 2021: Criminal Revision Petition is filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate Court, Sathyamangalam at Erode District in C.M.P.No.1840 of 2021 dated 26.11.2021 and to release the vehicle JCB Ltd Hitache confiscated by the respondent.

Prayer in CrI.R.C.No.1124 of 2021: Criminal Revision Petition is filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate Court, Sathyamangalam at Erode District in C.M.P.No.1993 of 2021 dated 13.12.2021. 1) Tipper Lorry in bearing Reg TN 38 CE 0632, Chassis No.MB1G3CFD6GEDU7777, Engine No.GDEZ406988, 2) Agricultural Tractor with trailer Bearing Reg No TN 36 BW1509, Chassis No.NHN90100ZMF558362/ETRAR2J21099, Engine No.326981DT, 3) JCB Backhoe Loader bearing Reg No.TN 36 AM 5999, Chassis No. BM1091807512, Engine No.4H32011821721 by the respondent.

Prayer in CrI.R.C.No.1125 of 2021: Criminal Revision Petition is filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate Court, Sathyamangalam at Erode District in C.M.P.No.1994 of 2021 dated 13.12.2021 and to release the vehicle namely JCB 3D Backhoe Loader in bearing Reg.No.KA 05MV 2223, Chassis No.4H2079040319, Engine No.1032311 by the respondent.

For Petitioners : Mr.John Satyan
(in all CrI.R.Cs) For M/s.MA.P.Thangavel

For Respondent : Mr.Leonard Arul Joseph Selvam
(in all CrI.R.Cs) Government Advocate
(Criminal Side)



COMMON ORDER

All these five Revision Petitions arise out of the separate orders passed by the learned Judicial Magistrate, Sathyamangalam, in which he rejected the prayers of the revision petitioners for release of the vehicles involved in each of the five cases under Section 451 Cr.P.C. All the vehicles involved in these batch of cases are alleged to be involved in Crime Nos.398 of 2021 of respondent Police.

2. The details are as below:

Sl. No.	Crl.R.C. No.	CMP.No. before Magistrate Court	Vehicle name	Vehicle No.
1	1122 of 2021	2008 of 2021	Tipper Lorry	TN 19 B 0515
2	1024 of 2021	1838 of 2021	Agricultural tractor with trailer	TN 36 BW 1777
3	1028 of 2021	1840 of 2021	JS140 HD Dipper (JCB Ltd Hitache)	-
4	1124 of 2021	1993 of 2021	Tipper Lorry	TN 38 CE 0632
			Agricultural Tractor with trailer	TN 36 BW 1509
			JCB Backhoe Loader	TN 36 AM 5999
5	1125 of 2021	1994 of 2021	JCB 3D Backhoe Loader	KA 05 MV 2223

3. The F.I.R is registered at the instance of the Village Administrative Officer of Vinnapalli Village, Sathyamangalam Taluk, Erode District, wherein he had alleged that the petitioner in Criminal Revision Case No.1122 of 2021 had committed theft of sand from the Government land.

4. The learned counsel for the revision petitioners submitted that the petitioner in Crl.R.C.No.1122 of 2021 is running a Spinning Mill and that his unit lies on a certain mud road that diverts from Kovai-Sathyamangalam National Highways. He further says that about the place, where the factory unit is being run, the said mud road is at a higher place with a result



during rain, the water runs from the road towards his factory unit, causing immense damage to his unit. He added the Monsoon Season of 2021 saw very heavy rainfall and it is in these circumstances, he has made a request to the President of Vinnapalli Panchayat on 25.10.2021, requesting the Panchayat to level the road at about the point, where water runs to his factory. This was not done. It is in these circumstances, the Village Administrative Officer has filed an F.I.R, alleging accused persons have committed theft of sand. Even, he submitted without prejudice to his defense in this case, there was no intention to steal any sand from the private property, but only some arrangement is made by which flow of water from the mud road is stopped from entering the premises. In other words, whatever sand alleged to have been removed is left on the road, and it only formed some kind of a ridge, so that water does not enter his premises. It is in these circumstances, the investigating agency has seized all the five vehicles involved in each of these five revision petitions.

5. The learned Government Advocate (Criminal Side) substantially concurred with the statement made, but added that without any sanction in law, the vehicle of the revision petitioners were used to remove soil from the Government land.

6. To this, the learned counsel for the revision petitioners showed atleast two photographs which show that the soil has been collected just to level the mud road in order to prevent flow of water into his factory unit.

7. The learned Government Advocate (Criminal Side) also fairly made a submission that there are no previous case against any of the revision petitioners nor any of the vehicles were involved in any previous cases.

8. After hearing both sides, this Court chooses to allow this petition and accordingly directs the learned Judicial Magistrate, Sathyamangalam to return the vehicles bearing Reg.Nos.TN 19 B 0515, TN 36 BW 1777, TN 38 CE 0632, TN 36 BW 1509, TN 36 AM 5999, KA 05 MV 2223 and JS140 HD Dipper (as per Invoice No.1130006784 dt.27.03.2014) to the revision petitioners, on the following conditions:-

(i)The petitioners shall produce the original RC Book of the vehicle and other relevant records to prove their ownership and the learned Judicial Magistrate, Sathyamangalam, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioners with a view to use the vehicles;



(ii)The petitioners shall not alter or alienate the vehicles in any manner till confiscation proceedings is over;

(iii)The petitioners shall also give an undertaking to the learned Judicial Magistrate that they will not use the vehicles for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below as well as by the District Collector of the District or authorized officer in that behalf by the Government;

(iv)The petitioners shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicles, before the confiscation authority. This order is subjected to the confiscation proceedings.

9.With the above directions, all the five Criminal Revision Cases are allowed by setting aside the orders dated 13.12.2021, 26.11.2021, 26.11.2021, 13.12.2021 and 13.12.2021 passed in C.M.P.No.2008 of 2021, C.M.P.No.1838 of 2021, C.M.P.No.1840 of 2021, C.M.P.No.1993 of 2021 and C.M.P.No.1994 of 2021 respectively by the learned Judicial Magistrate, Sathyamangalam.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Sathyamangalam.
2. The Inspector of Police,
Puliyampatti Police Station,
Erode District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.MA.P.Thangavel, Advocate, S.R.No.8625

Cr1.R.C.Nos.1122, 1024, 1028, 1124 & 1125 of 2021

GSM(CO)

RLP(10/02/2022)