



Crl.R.C.No.1573 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 15.12.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**Crl.R.C.No.1573 of 2022**

Elavarasan

... Petitioner

Vs.

The Sub-Inspector of Police,  
Chinnasalem Police Station,  
Kallakurichi District.

... Respondent

**PRAYER:** Criminal Miscellaneous Petition filed under Section 397 r/w.401 of Cr.P.C. to set aside the order dated 28.09.2022 made in Crl.M.P.No.1208 of 2022 on the file of the Judicial Magistrate-II, Kallakurichi and consequently, direct the respondent police to return the petitioner JCB vehicle bearing Registration No.TN-68, R-9537, Engine No.H00111951, Chassis No.HAR3DXSSJ01893896, allowing this Criminal Revision Petition.

For Petitioner : Mr.V. Gunasekar

For Respondent : Mr.V. Meganathan  
Gov. Advocate (Crl.Side)



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## **ORDER**

Challenging the order, dismissing the petitioner's application filed under Section 451 of Cr.P.C, passed by the Judicial Magistrate-II, Kallakurichi in Crl.M.P.No.1208 of 2022, dated 28.09.2022 to return the vehicle, the present Revision has been filed.

2. The respondent police seized the JCB vehicle belonging to the petitioner on the allegation that the vehicle is indulged by the accused person to take gravel sand illegally in Nakuppam lake. Pursuant to which, the respondent police registered a case in Crime No.309 of 2022 for the offence under Sections 379 and 511 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act. The petitioner, who is the owner of the JCB vehicle, filed an application before the Trial Court for returning the JCB vehicle bearing registration No.TN-68, R-9537. The Trial Court dismissed the petition and passed the impugned order on the ground that the Magistrate Court has no jurisdiction to return the vehicle



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seized under section 21(1) of Mines and Minerals Act, 1957 and the same is exclusively triable by Special Court of Principal District Sessions Court, Villupuram.

3. The learned counsel for the petitioner contended that the petitioner is the owner of the JCB vehicle bearing Registration No. TN-68, R-9537 and the petitioner was permitted by the Village Administrative Officer concerned to take clay soil from the Nakuppam Lake for agricultural purpose. The accused persons have not taken the clay soil from the lake, but only when they are making preparations to take clay soil, they were intercepted by the police and the vehicle was seized. Though the offence has not been committed, the police registered the case for attempting to commit that offence. The vehicle has been seized on 09.09.2022 and it is in custody of the police from that date onwards. If the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated.



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4. He would further submit that the petitioner will give an undertaking that he will not alienate the property and he will produce the vehicle as and when required before the Court below. Thus, he seeks to order for returning the vehicle.

5. The learned Govt. Advocate (crl.side) submitted that the vehicle was seized, while the accused persons were attempting to take clay soil from the Nakuppam lake.

6. Heard both sides and perused the materials available on record.

7. On perusal of records, it is revealed that the respondent police registered a case against the petitioner/accused in Crime No.309 of 2022 for the offence punishable under sections 379 and 511 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act. It is not disputed that the petitioner is the owner of the vehicle bearing Registration No.TN-68, R-9537. On going through the FIR, it is seen that on



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09.09.2022, at Nakuppam lake, the petitioner, without any valid permit and license, attempted to take clay soil from the Nakuppam lake. On seeing that the respondent police intercepted and seized the vehicle and registered a case. Now the petitioner seeks return of vehicle since the vehicle was stationed in an open yard and subject to natural calamities and unconditional weather conditions.

8. In ***Sunderbhai Ambalal Desai vs State Of Gujarat*** (cited supra), the Hon'ble Supreme Court in paragraph No.17 has held as follows:

*"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."*



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9. Considering the nature of the offence involved and also considering the dictum of the Supreme Court cited supra, I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

10. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No. TN-68, R-9537 to temporary custody of the petitioner, on complying the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.10,00,000/- (Rupees ten lakhs only) before the Judicial Magistrate No.II, Kallakurichi;
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;
- v. the petitioner shall take photograph of the vehicle; and
- vi. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.



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11. Accordingly, the Criminal Revision is allowed.

**15.12.2022**

msr

Index:yes/no

Internet:yes/no

**To**

1. The Judicial Magistrate-II, Kallakurichi
2. The Sub-Inspector of Police,  
Chinnasalem Police Station,  
Kallakurichi District
3. The Public Prosecutor,  
High Court of Madras, Chennai.

Note: Issue on 20.12.2022



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**V.SIVAGNANAM, J.,**

msr

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