



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 01.02.2022

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.24 of 2022

Eswaramoorthy@ Eswaran

.. Petitioner/Petitioner

Vs.

State Rep. by
Inspector of Police,
Vangal Police Station,
Karur District.
In (Crime No.471 of 2021)

.. Respondent/Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records of the learned Sessions Judge, Karur in recall order in Crl.M.P.No.1388 of 2021 dated 02.12.2021 and to set aside the same and further to direct the learned Sessions Judge, Karur to grant interim custody of vehicle viz Tipper lorry bearing Registration No.TN-45-H-6390 without insisting the original RC book to the petitioner.

For Petitioner : Mr.A.N.Ramanathan

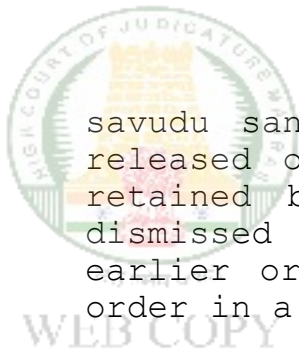
For Respondent : Mr.K.Sanjay Gandhi, Government Advocate

ORDER

This petition has been filed to set aside the recall order passed in Cr.M.P.No.1388 of 2021 dated 02.12.2021, on the file of the learned Sessions Judge, Karur.

2.A tipper lorry bearing Registration No.TN-45-H-6390 was seized by the respondent police in Crime No.471 of 2021 under Section 379 of IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act. Subsequently, the petitioner claiming himself as the owner of the tipper lorry, has approached the learned District and Sessions Judge, Karur, by filing a petition for release of the tipper lorry and the learned Judge allowed the petition in Crl.M.P.No.1388 of 2021 dated 28.09.2021 on certain conditions. When the petitioner filed a cost memo stating that he complied the condition of deposit of the amount, the trial Court has recalled the order and the petition was dismissed. Against which, the petitioner is before this Court with this revision case.

3.On the side of the petitioner, it is stated that the petitioner is not an accused in the case. The petitioner was having permit to transport sand and the vehicle was seized for transporting



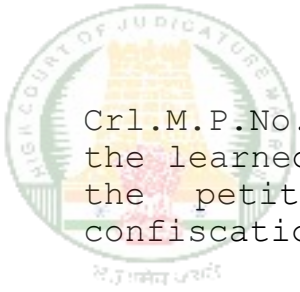
savudu sand not river sand. The accused in the case was already released on bail. Only because the R.C. Book of the vehicle was retained by the Court in another offence, the trial Court has dismissed the petition for breaching the condition imposed in the earlier order. The trial Court is not having power to cancel the order in a cost memo and prayed to set aside the recall order.

4.On the side of the respondent, it is stated that two vehicles were seized by the respondent police for transporting three units of sand. R.C. Book of the vehicle was retained by the Court in earlier case. The petitioner has violated the condition imposed by the Court in the earlier case. Hence, the trial Court has rightly recalled the subsequent order and prayed the petition to be dismissed.

5.A perusal of the records reveals that the petitioner failed to mention about the earlier case in the petition in Crl.M.P.No.1388 of 2021. The pendency of the earlier case was not brought to the knowledge of the learned Sessions Judge at the time of passing the order in Crl.M.P.No.1388 of 2021. The validity of the permit cannot be decided by this Court at this stage. Only in the cost memo, the petitioner has mentioned that the R.C. Book cannot be handed over, since the same was produced before the Court in an earlier case. It is true that the petitioner has breached the order passed by the trial Court by the involvement of the vehicle in another offence.

6.It is seen that the FIR was registered on 11.08.2021. For the past five months, the vehicle was kept in open space. Exposure to climatic conditions will spoil the vehicle. In the above circumstances, the recall order passed in Cr.M.P.No.1388 of 2021 dated 02.12.2021, on the file of the learned learned Sessions Judge, Karur is set aside.

7.It is seen that since the petitioner has violated the condition no.3 imposed by the trial Court in Crl.M.P.No.264 of 2020, this Court directs the petitioner to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of Crime No.471 of 2021 on the file of the learned Judicial Magistrate No.II, Karur and the learned Judicial Magistrate No.II, Karur is directed to keep the fund in a fixed deposit scheme in a Nationalised Bank and the learned Judicial Magistrate No.II, Karur is at liberty to dispose of the amount after the disposal of the case. The trial Court is directed to retain the original R.C. Book in Crl.M.P.No.264 of 2020 till the disposal of the case in Crime No.471 of 2021. This Court is inclined to *suo moto* modify the second condition imposed in Crl.M.P.No.264 of 2020 to the effect that "the petitioner is directed to execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Karur". If at all the vehicle was used for commission of any offence again, both the orders passed in



CrI.M.P.No.264 of 2020 and CrI.M.P.No.1388 of 2021 on the file of the learned Sessions Judge, Karur stands automatically cancelled and the petitioner has to produce the vehicle immediately for confiscation.

8. With the above direction, this Criminal Revision Case is disposed of. The recall order of the learned Sessions Judge, Karur, in Cr.M.P.No.1388 of 2021 dated 02.12.2021 is set aside.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The District and Sessions Judge, Karur.

2.The Judicial Magistrate No.II,
Karur.

3.The Inspector of Police,
Vangal Police Station,
Karur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-3499[F] dated 01/02/2022)

CrI. R.C.(MD)No.24 of 2022
01.02.2022

SK(CO)

KB(22.02.2022) 3P 6C