



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C(MD)No.182 of 2022

T.Kanaga Ananth

... Petitioner/Petitioner

Vs.

State represented through,
The Forest Range Officer,
Wild Life Madurai Forest Range,
K.Pudur,
Madurai.

(W.L.O.R.No.02 of 2021).

... Respondent/Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the entire records pertaining to the order dated 29.11.2021 in Cr.M.P.No.3165 of 2021 by the learned Judicial Magistrate Court, Vadipatti and set aside the order by allowing this revision.

For Petitioner

: Mr.M.Kannan

For Respondent

: Ms.M.Aasha

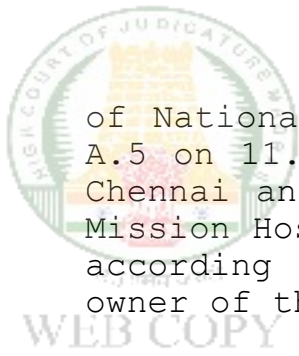
Government Advocate (CrI. Side)

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.3165 of 2021 dated 29.11.2021 on the file of the learned Judicial Magistrate Court, Vadipatti, thereby dismissed the petition for return of property under Section 451 of Cr.P.C.

2.The petitioner is an accused in the crime registered by the respondent in W.L.O.R.No.02 of 2021 for the offences under Sections 2(1)(2) (5) (11) (14) (16) (18) (23) (36) (37) and 9, 39, 40, 42, 43, 44, 47, 48, 48A, 49A, 49B, 49C, 50, 51, 52, 57 and 58 of the Wild Life (Protection) Act, 1972 on 12.10.2021. In pursuant to the registration of the said case, the respondent arrested the petitioner and A.1 to A.4.

3.The allegation is that on 12.01.2021, the respondent along with team went to the house of the petitioner situated at Plot No.51, Keelapanangadi Ayyanar Nagar House and made search, where Accused Nos.2 and 3 were also available. During the search, they illegally and secretly possessed the scheduled wild animals viz., Felis Chaus (Jungle Cat) - 4, Indian Eagle Owl (Bubo Bengalogis) - 1, Indian Spotted Eagle (Clanga Hastata) - 1 without any proper permission and licence and attempted to sell the same. During the investigation, it was found that A.4 in this case, who is the driver



of National Travels, had illegally received some wild animals from A.5 on 11.10.2021 and transported the above said wild animals from Chennai and handed over the same to the first accused at Meenakshi Mission Hospital Bus Stop, which was again transported in A.1's car, according to A.4's confession statement. The sixth accused is the owner of the bus.

4.The above animals were transported by the car bearing Registration No.TN-59-BR-7285. The said vehicle was seized and produced before the learned Judicial Magistrate, Vadipatti on 13.10.2021 in R.P.R.No.289 of 2021. While pending investigation, the petitioner filed a petition in Cr.M.P.No.3165 of 2021 for return of the vehicle. The petition was dismissed for the reason that the vehicle used in this offence shall be confiscated and the same shall become the property of the Government.

5.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that after completion of investigation, now charge-sheet has been laid and the same has also been taken on file on before the learned Judicial Magistrate, Vadipatti. She further submitted that the respondent by communication, dated 13.10.2021, requested the District Forest Officer, Madurai to initiate confiscation proceedings in respect of the vehicle bearing Registration No.TN-59-BR-7285.

6.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

7.On a perusal of the records revealed that till today, there is no proceedings initiated by the District Forest Officer, Madurai to confiscate the vehicle. The vehicle was seized and produced before the learned Judicial Magistrate, Vadipatty as early as on 13.10.2021. For the past six months, the vehicle was exposed to sun and rain and it will be rusted and wasted if it is to remain idle in the custody of the Court, it will be a waste of resource.

8.Considering the above facts and circumstances, the order passed in Cr.M.P.No.3165 of 2021 dated 29.11.2021 on the file of the learned Judicial Magistrate Court, Vadipatti is set aside and the Criminal Revision Case is allowed. The learned Judicial Magistrate, Vadipatty, is directed to return the vehicle, subject to the fulfillment of the following conditions by the petitioner:-

(i) Accordingly, the petitioner shall execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) with **two solvent sureties**, each for a like sum to the satisfaction of the learned Judicial Magistrate, Vadipatty, within a period of four weeks from the date of receipt of a copy of this order.



(ii) The petitioner shall surrender the original Registration Certificate of the vehicle before the learned Magistrate, Vadipatty;

(iii) the petitioner shall give an unconditional undertaking to the respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings.

(iv) the petitioner shall not change the colour and scheme of the vehicle.

(v) the petitioner shall not use the vehicle for any illegal activities.

(vi) before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vii) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the respondent.

(viii) As and when the respondent call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondent.

However, the respondent is at liberty to initiate confiscation proceeding as contemplated under Section 30(1)(d) of the Wild Life (Protection) Act, 1972.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Judicial Magistrate Court,
Vadipatti.
- 2.The Forest Range Officer,
Wild Life Madurai Forest Range,
K.Pudur,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M. KANNAN, Advocate (SR-17323[F] dated 07/04/2022)

Crl.R.C(MD)No.182 of 2022
06.04.2022

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