



BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.364 of 2022

WEB COPY

Satham Hussain

... Petitioner/Petitioner/Accused

Vs.

1.The State through,
The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
(Crime No.206 of 2021).

2.The Tahsildar,
Thiruvadanai Taluk,
Thiruvadanai,
Ramanathapuram District.

3.The Assistant Director of Geology and Mining,
Office of the Geology and Mining Department,
Collectorate Campus,
Ramanathapuram District.

4.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Ramanathapuram Revenue Division,
Ramanathapuram.

... Respondents/Respondents/
Complainant

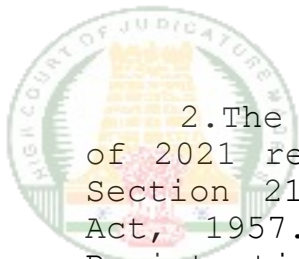
PRAYER: Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records and set aside the order in Crl.M.P.No.2850 of 2021 in Crime No.206 of 2021, dated 21.12.2021 on the file of the learned Principal District Judge, Ramanathapuram District.

For Petitioner : Mr.R.Manickam

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

This revision has been filed to set aside the order passed in Crl.M.P.No.2850 of 2021 in Crime No.206 of 2021, dated 21.12.2021 on the file of the learned Principal District Judge, Ramanathapuram District, thereby dismissing the petition filed under Section 451 of Cr.P.C.



2.The petitioner is arraigned as Accused No.2 in Crime No.206 of 2021 registered for the offence under Section 379 of I.P.C and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957. The petitioner is the owner of the tractor bearing Registration No.TN-65-AF-3441 and used the vehicle for taking savudu sand. In pursuant to the said crime, the vehicle was seized by the first respondent. While pending investigation, the petitioner filed a petition for return of property and the same was dismissed on the ground that the petitioner has already involved in similar type of offence in connection with Crime Nos.16 of 2018 and 75 of 2018. Further, the petitioner has also filed an undertaking affidavit before the Court below stating that he will not use the vehicle for any illegal activities in future.

3.The learned counsel appearing for the petitioner would submit that the petitioner's vehicle permanently engaged by the Village Panchayat President to take out savudu sand for the purpose of developing the damaged road of the Panchayat. In support of his contention, Mangalakudi Panchayat President also filed an affidavit before this Court and today, the said Mangalakudi Panchayat President is also present before this Court. In the affidavit it has been stated as follows:-

"2.I submit that I am serving the Panchayat President for the past three years and I am serving my Panchayat people as helping manner.

3.I further submit that I am well known as the petitioner and he very helpful for the panchayat work and I am utilizing his tractor vehicle bearing Registration No.TN-65-F-3441 for my Panchayat work many more time. There is no separate vehicle in my Panchayat for utilizing Panchayat work, when if necessary I called his vehicle and utilize the same for garbage cleaning, sewer soil cleaning work and etc and my Panchayat have also pay a sum of Rs.10,500/- for arrears of this vehicle rent.

4.I further submit that at this juncture, I utilizing this vehicle for the purpose of closing the cavity in the Panchayat road at the time of excavate the damaging water pipe line work on 14.08.2021. Due to that water pipe line work the Panchayat road was much damaged and also the Panchayat people have also several complaints to develop the said damaged road. As per the emergency manner I have develop the said road and as per my direction he takes the savudu soil in my patta land in front of my house and he also taking the savudu soil from my patta land and also closing the cavity place. When the savudu soil is drained and returned back at that time the police party came to that place and they have ceased the empty vehicle and arrested



driver of the vehicle. Suddenly, I came to that place and I explained situation the nature of work and I explained the said savudu soil taking only my patta land, but they have not care my words and they have not consider my request they have taken the said vehicle into their station. At the time of ceasing that vehicle, the vehicle is empty. At that time of ceasing that vehicle, the vehicle involving only Panchayat work and the savudu soil taking only into my patta land also."

The affidavit filed by Mangalakudi Panchayat President revealed that the said vehicle owned by the petitioner was used for Panchayat work and savudu soil taken only from his patta land.

4.The learned counsel appearing for the petitioner would submit that the vehicle was purchased through financier, as if the original R.C book could not be able to produce before the trial Court, since it was in the custody of the financier.

5.In view of the above facts and circumstances, the order passed in Crl.M.P.No.2850 of 2021 in Crime No.206 of 2021, dated 21.12.2021 on the file of the learned Principal District Judge, Ramanathapuram District, is set aside and the Criminal Revision Case is allowed. The learned Principal District Judge, Ramanathapuram District 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.2,00,000/- (Rupees Two Lakhs Only) with two sureties, each for a like sum to the satisfaction of the learned Principal District Judge, Ramanathapuram District, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall produce the certified copy of the Registration Certificate of the vehicle before the concerned Court, since the original Registration Certificate was in the custody of the Financier.

(iii) the petitioner shall give an unconditional undertaking to the first 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 first respondent.

(viii) As and when the first 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 first respondent.

Sd/-

Assistant Registrar (CS-I)

// 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 Principal District Judge,
Ramanathapuram District.
- 2.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
- 3.The Tahsildar,
Thiruvadanai Taluk,
Thiruvadanai,
Ramanathapuram District.



4.The Assistant Director of Geology and Mining,
Office of the Geology and Mining Department,
Collectorate Campus,
Ramanathapuram District.

5.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Ramanathapuram Revenue Division,
Ramanathapuram.

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

+1 CC to M/s.R. MANICKAM, Advocate (SR-20004[F] dated 21/04/2022)

Cr1.R.C (MD) No.364 of 2022
19.04.2022

RK(29/04/2022) 5P 8C