

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **22.09.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.R.C(MD)No.784 of 2022

Madasamy

... Petitioner

Vs.

The state rep. by
The Inspector of Police Station,
M.Pudupatti Police Station,
Virudhunagar District

... Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to case in Cr.M.P.No. 1766 of 2022 on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, dated 07.07.2022 in Crime No.4 of 2022 on the file of the respondent police and set aside the same..

For Petitioner : Mr.S.Balaji

For Respondent : Mr.SS.Madhavan
Government Advocate (Crl. side).

ORDER

This Criminal Revision Petition is directed against the order passed in Cr.M.P.No.1766 of 2022 dated 07.07.2022 by the learned Principal District and Sessions Judge, Virudhunagar District, Srivilliputhur, dismissing the petition filed under Section 451 Cr.P.C.

2.The petitioner claims to be the owner of the Tipper Lorry bearing Registration No.TN-96-D-0087. On 03.01.2022, the first respondent police intercepted the vehicle viz., Tipper Lorry bearing Registration No.TN-D-0087 and seized the vehicle as the same was used for transporting of illegal sand without any valid license or permit and registered a case in Crime No.4 of 2022 for the alleged offences under Sections 379 IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act.

3.The petitioner has filed petition under Section 451 Cr.P.C., seeking return of the vehicle, but the learned Principal District and Sessions Judge, by observing that the petitioner was already involved in similar type of offence, has

dismissed the application. Challenging the dismissal order, the above Criminal Revision came to be filed before this Court.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5.The learned Government Advocate (Criminal Side) would submit that the petitioner is involved in one previous case similar offence.

6.The learned counsel for the petitioner would submit that the vehicle bearing Registration No. TN-96-D-0087 is owned by the petitioner, the said vehicle has no connection whatever with the alleged occurrence and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and therefore custody may be granted to the petitioner. As per the direction of this Court, the petitioner has filed an undertaking affidavit stating that he will not indulge in such activities in future.

7.Considering the above facts and circumstances of the case, considering the undertaking affidavit filed by the petitioner and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 07.07.2022 passed in Cr.M.P.No.1766 of 2022, by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.

8.Accordingly, this Criminal Revision Petition is allowed and the order dated 07.07.2022 in Cr.M.P.No.1766 of 2022 in Crime No.4 of 2022 on the file of the learned Principal District and Sessions Judge, Virudhunagar District, Srivilliputhur is hereby set aside and the learned Principal District and Sessions Judge is directed to release the vehicle of the petitioner on the following conditions:-

- (a) The trial Court shall return the vehicle to the petitioner after verifying original Registration Certificate of the vehicle.
- (b) the petitioner is directed to deposit a sum of Rs.50,000/-(Rupees Fifty

Thousand only) to the credit of Crime No.4 of 2020 before the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur within a period of two weeks from the date of receipt of copy of this order.

- (c) the petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only), with two sureties for a like sum to the satisfaction of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.
- (d) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;.
- (e) If the respondent police finds the vehicle involved in any other illegal activity in future, the order granted by this Court, shall stand automatically cancelled without further reference to this Court and the vehicle may be seized.

22.09.2022

Index : Yes/No

Internet : Yes/No

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(Note:- Issue order copy on 23.09.2022)

To:-

1. learned Principal District and Sessions Judge, Virudhunagar District,
Srivilliputhur,
2. The Inspector of Police Station,
M.Pudupatti Police Station,
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C(MD) No.784 of 2022

G.ILANGOVAN,J

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**ORDER MADE IN
Crl.R.C.(MD)No.784 of 2022**

22.09.2022