



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 04.01.2022

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WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.981 of 2021

Abdul Vahaf

.. Petitioner /Petitioner/
Owner of the Vehicle

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Ramanathapuram.

2.The Tahsildar,
Taluk Office,
Kadaladi.

3.State through the Inspector of Police,
Sayalgudi Police Station,
(Crime No.95 of 2021)

4.The Assistant Director,
Geology and Mining Department,
Collectorate Complex,
Ramanathapuram.

.. Respondents/
Respondents/ Complainant

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records in Cr.M.P.No.1877 of 2021 dated 20.09.2021 on the file of the learned Principal Sessions Judge, Ramanathapuram and to set aside and modify the onerous condition nos.2, 3 and 6.

For Petitioner : Mr.T.Veerakumar

For Respondents : Mrs.M.Aasha, Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1877 of 2021 dated 20.09.2021, on the file of the learned Principal Sessions Judge, Ramanathapuram, in respect of condition nos.2, 3 and 6 alone.



2.A tractor bearing Registration No.TN-65-AW-1699 was seized by the respondent police in Crime No.95 of 2021 under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act. Subsequently, the petitioner claiming himself as the owner of the tractor, has approached the learned Principal Sessions Judge, Ramanathapuram, by filing a petition for release of the vehicles and the learned Judge allowed the petition in Crl.M.P.No.1877 of 2021 dated 20.09.2021, by imposing the condition nos.2, 3 and 6 to the effect that "(ii)the petitioner shall execute a bond for a sum of Rs.1,00,000/- with two sureties for like sum to the satisfaction of this Court. One surety shall be the blood relative of the petitioner, (iii)the petitioner is directed to remit a sum of Rs.60,000/- as costs within a period of two weeks from the date of receipt of a copy of this order, by way of an individual deposit in favour of the District Legal Services Authority, Ramanathapuram, who shall receive the said amount as "Environmental Fund" and make use of the said amount for the purpose mentioned in the order and make use of the said amount for the purposes mentioned in the order passed by the Hon'ble Madurai Bench of Madras High Court in CRP(MD)No.1643 of 2010 dated 20.06.2018 D.Govindasamy v. L. Ganesh Naidu (deceased) and two others. Further the petitioner shall produce the receipt for the remit of the same from the concerned Authority at the time of furnishing security before this Court and (vi)the petitioner shall file an undertaking affidavit along with No Objection Certificate issued by the Sundaram Finance Company, Madurai and the petitioner shall produce the attested true copy of the R.C. Obtaining from the above said Bank at the time of furnishing sureties". Challenging the aforesaid condition, the petitioner is before this Court with this revision case.

3.On the side of the petitioner, it is stated that the first condition imposed by the trial Court is to execute a bond of Rs.1,00,000/- with two sureties and one surety shall be a blood relative of the petitioner and that the petitioner is not able to produce blood relative as the surety. It is further stated that the third condition imposed by the trial Court is to deposit a sum of Rs.60,000/- (Rupees Sixty Thousand only) for Environmental fund, District Legal Services Authority, Ramanathapuram, which is onerous. It is further stated that the sixth condition imposed by the trial Court is to produce no objection certificate from Sundaram Finance company and the petitioner has to produce an attested true copy of the RC obtained from the above said bank and prayed to set aside the aforesaid conditions.

4.On the side of the respondent, it is stated that the vehicle was seized with one unit of river sand. Totally three accused involved in the offence. The petitioner is A1 in the case. The condition to execute bond cannot be named as a onerous condition. The condition to deposit the amount for meaningful services is not onerous. The petitioner is having two previous



cases including one similar offence and prayed the petition to be dismissed.

5.It is seen that though the petitioner has mentioned that the vehicle was pledged with a finance company, he has not impleaded the finance company as a party in the proceedings. This Court is inclined to modify the second condition to the effect that "the petitioner shall execute a bond for a sum of Rs.1,00,000/- with two sureties for like sum to the satisfaction of the trial Court". This Court is inclined to modify the third condition to the effect that "the petitioner is directed to deposit a sum of Rs.50,000/- to the credit of Crime No.95 of 2021, before the learned Principal Sessions Judge, Ramanathapuram. On such deposit, the learned Principal Sessions Judge, Ramanathapuram, shall re-deposit the amount in any Nationalised Bank, so that, the amount accrues interest and the same can be disbursed, after the disposal of the case". This Court is inclined to modify the sixth condition to the effect that "the petitioner shall deposit the original Registration Certificate of the vehicle with the learned Principal Session Judge, Ramanathapuram."

6.It is seen that the petition is only for tractor not for the trailer and this Court makes it clear that this order is applicable only for tractor and not for the trailer. In respect of other conditions, the order of the learned Principal Sessions Judge shall remain unaltered.

7.With the above directions, this Criminal Revision Case is allowed. The order of the learned Principal Sessions Judge, Ramanathapuram, in Cr.M.P.No.1877 of 2021 dated 20.09.2021, is thereby modified.

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 Principal Sessions Judge, Ramanathapuram.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Ramanathapuram.

3.The Tahsildar,
Taluk Office,
Kadaladi.

4.The Inspector of Police,
Sayalgudi Police Station,

5.The Assistant Director,
Geology and Mining Department,
Collectorate Complex,
Ramanathapuram.

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

Crl. R.C. (MD) No. 981 of 2021
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RD(20.01.2022) 4P 7C