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Crl.O.P.No.12275 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.06.2023

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THE HON'BLE Mr. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.12275 of 2023

James @ Jamesraj

...Petitioner

Vs.

State represented by
The Inspector of Police,
Koradacherry Police Station,
Tiruvarur.
(Crime No.1394 of 2020)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to modify the condition imposed in point No.9 Serial No.2 with regard to the deposit for sum of Rs.45,000/- and in Serial No.3 with regard to the deposit of Rs.5,000/- and in Serial No.5 with regard to the deposit of the Original RC Book in Crl.M.P.No.1413 of 2021 on the file of Principal Sessions Judge, Tiruvarur, dated 30.11.2021.

For Petitioner : Mr.K.Pragadeesh Kumar
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to modify the condition imposed in point No.9 Serial No.2 with regard to the deposit for sum of Rs.45,000/- and in Serial No.3 with regard to the deposit of Rs.5,000/- and in Serial No.5 with regard to the deposit of the Original RC Book in CrI.M.P.No.1413 of 2021 on the file of Principal Sessions Judge, Tiruvarur, dated 30.11.2021.

2. It is the submission of the learned counsel for the petitioner that asking the petitioner to deposit a sum of Rs.45,000/- before the learned Judicial Magistrate, Thiruvarur and then again to deposit a non-refundable amount of Rs.5,000/- to the Chairman/District Judge, The District Legal Services Authority, Thiruvarur, Kumbakonam is in the nature of imposing the punishment before the disposal of this case. He further submitted that the direction to deposit original RC Book would cause unnecessary harassment to the petitioner, if the petitioner drives the vehicle on the road and there is a need for presenting the RC book before the authorities.



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3. The learned Government Advocate (Crl.side) opposed this petition on the ground that if the RC Book is returned to the petitioner, there is a possibility of misusing the RC Book by either selling the vehicle or making some encumbrance on the vehicle. With regard to other conditions, the Court may pass orders on merits.

4. Considered the rival submissions and perused the records.

5. On going through the order, this Court finds that the vehicle bearing Registration No. TN 21 AY 5519 was involved in illegal transport of sand and a case in Crime No.1394 of 2020 was registered for the offences under Sections 430, 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. There is a direction to deposit a sum of Rs.45,000/- before the learned Judicial Magistrate, Thiruvarur, on or before 30.12.2021. However, it does not indicate as to whether the amount is refundable or non-refundable amount. Without a clear direction on this aspect, we have to conclude that this amount was imposed like penalty/fine.



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When there is no specific reason given as to why the petitioner has to deposit Rs.45,000/-, this Court is of the considered view that this direction of the learned Principal Sessions Judge, Thiruvarur cannot be sustained.

6. With regard to other condition to deposit a sum of Rs.5,000/- to the Chairman/District Judge, The District Legal Services Authority, Thiruvarur, Kumbakonam, this Court is of the considered view that considering the nature of the offence, the condition imposed for deposit of Rs.5,000/- as non-refundable deposit to the Chairman/District Judge, The District Legal Services Authority, Thiruvarur, Kumbakonam for the use of the District Legal Services Authority is just and appropriate.

7. With regard to the condition, that the petitioner has to deposit the RC Book, this Court finds that this condition is necessary, when the case is pending. Petitioner can get a certified copy from the Court and use it for regular usage. As and when he requires the original RC Book for any other purpose like renewal of permit etc., he can file a petition before the



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concerned Court for the return of original RC book for the specific purpose and after the purpose is over, RC Book can be returned to the Court.

8. In view of the above, the condition No.9(2) in Crl.M.P.No.1413 of 2021, dated 30.11.2021 is set aside, the condition No.9(5) in Crl.M.P.No.1413 of 2021, dated 30.11.2021 is modified. The other conditions shall remain intact. The conditions have to be complied within a period of four weeks from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Original Petition is ordered.

01.06.2023

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Index:Yes/No

Speaking Order: Yes/No



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G.CHANDRASEKHARAN.J.,

mn

To

1. The Principal Sessions Judge, Tiruvarur.
2. The Judicial Magistrate, Thiruvarur.
3. The Inspector of Police,
Koradacherry Police Station,
Tiruvarur.
4. The Public Prosecutor,
High Court of Madras.

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