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Crl.R.C.No.1537 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1537 of 2023

Shanmugavelan

... Petitioner

Vs.

State by
the Sub Inspector of Police
Kalavai Police Station,
Ranipet District.

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the orders passed by the learned Principal District and Sessions Judge, Vellore in Crl.M.P.No.2722 of 2023 in Crl.M.P.No.3521 of 2022, dated 02.08.2023 thereby directing the petitioner to deposit a Sum of Rs.1,00,000/- before the District Munsif Cum Judicial Magistrate Arcot for releasing the petitioner's Tractor (an unregistered vehicle) bearing Engine No.ZME3MAA5703 and Chassis No.MBNAAALGAMZE04161.

For Petitioner : Ms.S.P.Arthi

For Respondent : Mr.R.Vinothraja,

Government Advocate (Crl. Side)



Crl.R.C.No.1537 of 2023

WEB COPY

ORDER

Challenging the orders, dated 02.08.2023 passed in Crl.M.P.No.2722 of 2023 in Crl.M.P.No.3521 of 2022 by the learned Principal District and Sessions Judge, Vellore, the present Criminal Revision is filed.

2. The revision petitioner is an accused in Crime No.39/2022 of Kalavai Police Station, Ranipet for the alleged offences punishable under Sections 379 and 430 I.P.C., The case of the prosecution is that the revision petitioner / accused was found illegally transporting Lake sand and hence he was arrested and remanded to judicial custody. FIR in Crime No.39/2022 was also registered. The vehicle loaded with sand was seized by the Police and was produced before the concerned trial Court.

3. Thereafter, the revision petitioner filed a petition under Section 451 Cr.P.C., in Crl.M.P.No.3521 of 2022, seeking return of vehicle viz., Tractor (an unregistered Vehicle) bearing Engine No.



Crl.R.C.No.1537 of 2023

ZME3MAA5703 and Chassis No. MBNAAALGAMZE04161 in Crime No.39/2022 and the said petition was allowed on the following conditions:

- i. the petitioner is directed to remit a nonrefundable deposit of Rs.25,000/- to the jurisdictional Tahsildar concerned by way of demand draft payable to the credit of "District Mines & Minerals Foundation Trust".*
- ii. Upon undertaking to produce the vehicle as and when required before the District Munsif cum Judicial Magistrate, Arcot.*
- iii. To submit original RC Book after registration within a period of 1 month and on such failure, Respondent was given liberty to seize the vehicle.*
- iv. To deposit a sum of Rs.1,00,000/- before concerned Magistrate Court within a period of 1 month.*
- v. To pay a sum of Rs.5,000/- before concerned Magistrate Court for violation of Section 192(1) of MV Act.*



Crl.R.C.No.1537 of 2023

- vi. *To file an undertaking not to encumber or alienate the vehicle till disposal of the case.*
- vii. *To produce 5 photographs/CD of the vehicle before the District Munsif cum Judicial Magistrate, Arcot.*
- viii. *To file an undertaking that similar offence will not be committed in future.*

4. Aggrieved over the condition IV which directed the petitioner to deposit a sum of Rs.1 lakh before the concerned Magistrate Court within a period of one month, the petitioner preferred Crl.M.P.No.2722 of 2022 before the trial Court and the same was dismissed on 02.08.2023 on the ground that the petitioner being the owner of the vehicle, did not state any reason for reducing the deposit amount. Aggrieved over the said order, the present revision is filed.

5. Ms.S.P.Arthi, learned counsel for the petitioner contended that the revision petitioner paid the non-refundable amount of Rs.25,000/- in favour of the District Mines and Minerals Foundation



Crl.R.C.No.1537 of 2023

Trust as directed by the learned Principal District and Sessions Judge, Vellore. However, he is unable to deposit a sum of Rs.1 lakh as he had obtained loan for purchase of Tractor and that he has to repay the loan amount.

6. The learned trial Court Judge while returning the vehicle to the revision petitioner / owner of the vehicle had directed him to remit a non-refundable deposit of Rs.25,000/- to the Tahsildar, by way of demand draft to the credit of District Mines and Minerals Foundation Trust. This is apart from directing the petitioner to deposit a sum of Rs.1,00,000/- to the credit of concerned jurisdictional Magistrate. In my opinion, the condition directing the petitioner to remit a sum of Rs.1,00,000/- is onerous, especially when the petitioner contends that he purchased the Tractor by availing a loan.

7. Considering the facts and circumstances of the case, this Court is inclined to set aside the order dated 02.08.2022 made in Crl.M.P.No.3521 of 2022 on the file of the Principal District and



Crl.R.C.No.1537 of 2023

Sessions Judge, Vellore on the following terms:

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- i. The Condition No.4 imposed vide orders dated 08.02.2023 made in Crl.M.P.No.2722 of 2023 on the file of the Principal District and Sessions Judge, Vellore is set aside;
- ii. The revision petitioner is directed to execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) before the District Munsif Cum Judicial Magistrate, Arcot.
- iii. The other conditions shall remain intact.

8. With the above modification, this Criminal Revision is disposed of.

05.09.2023

Index: Yes/No
Speaking/Non-Speaking order
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Crl.R.C.No.1537 of 2023

To
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- 1.The Principal District and Sessions Judge, Vellore.
2. The District Munsif Cum Judicial Magistrate, Arcot
3. The Sub Inspector of Police
Kalavai Police Station,
Ranipet District.



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Crl.R.C.No.1537 of 2023

R. HEMALATHA, J.

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Crl.R.C.No.1537 of 2023

05.09.2023