



Crl.R.C.(MD)No.111 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.02.2023

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGOVAN

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Subramani

... Petitioner / Petitioner /
Owner of the property

Vs

State, represented by
The Deputy Superintendent of Police,
CSCID Police Station,
Thoothukudi.
(Crime No.147/2022).

... Respondent / Respondent

Prayer: This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the entire records relating to the impugned order dated 08.12.2022 made in Crl.M.P. No.14723 of 2022 on the file of the learned Judicial Magistrate No.IV, Thoothukudi and to set aside the same and consequently to return the petitioner's vehicle, namely Goods Carrier – Bharat Benz 3123R 8X2 BSIV – Tanker, bearing registration No.TN 24 AS 3116 to the petitioner forthwith.

For Petitioner : Mr. Jeyakarthik.M.S

For Respondent : Mr. Sakthi Kumar.M
Government Advocate (Crl. Side)



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ORDER

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Challenging the dismissal order, dated 08.12.2022, in Crl.M.P. No.14723 of 2022, passed by the learned Judicial Magistrate No.IV, Thoothukudi, this Criminal Revision Case has been filed by the revision petitioner.

2. A case was registered in Crime No.147 of 2022 against eight persons under Section 2(e)(V)(VI)(VII) of Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 1998 and 7(1)(a)(iii) of Essential Commodities Act, 1955, on the ground that when the Police team was on a routine patrol duty, the secret information has given by the defacto complainant to the respondent Police, so the Police team has visited the godown owned by one Arunkumar near Madurai Bye-Pass road, at that time they found seven persons transferring the oil from tanker lorry bearing registration No.TN 24 AS 3116 to the another vehicle bearing Registration No.TN 69 T 1166, on seeing the Police team, all the persons tried to escape but however they were apprehended and on enquiry, the first accused made a statement that because of the loss suffered in the business, planned to purchase the spurious diesel for lower rate and sell the same to fishing boats. In the above said process, the above said arrest has been made.



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3. During the course of investigation, both the vehicles have been seized and remanded before the trial Court. Seeking release of the vehicle bearing Registration No.TN 24 AS 3116 Tanker lorry, this revision petitioner has filed the petition in Crl.M.P.No.14723 of 2022 before the learned Judicial Magistrate No.IV, Thoothukudi and the same came to be dismissed by the trial Court by accepting the defence made by the prosecution, stating that the petitioner may alter the vehicle and may not produce the same at the time of trial. Challenging the above said Crl.M.P.No.14723 of 2022, this revision has been preferred.

4. The learned Government Advocate (Crl.Side) would submit that investigation is pending and he opposed to grant interim custody of the said vehicle to the petitioner.

5. The learned Counsel for the petitioner would submit that the petitioner has given an undertaking affidavit that he will not indulge any kind of illegal activities in future.

6. No doubt that the investigation is pending. However, the property cannot be kept idle in the open place either in the Police Station or in the Court, causing damage to the vehicle and making it unfit for any use in future and no



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prejudice will be caused to the prosecution in making the investigation process if the property is delivered to the petitioner on interim custody.

7. But however, the learned Government Advocate (Crl. Side) would submit that the seventh accused is the son of this petitioner. This petitioner used the seventh accused for that purpose of committing the illegal activities.

8. However on the above said ground, this Criminal Revision Case is allowed and the order, dated 08.12.2022, in Crl.M.P. No.14723 of 2022, passed by the learned Judicial Magistrate No.IV, Thoothukudi, is hereby set aside. The above said vehicle is ordered to be returned to the petitioner by following proper procedure. The petitioner shall produce the original RC book and file an undertaking affidavit before the concerned trial Court to the effect that he will not alter or change the vehicle. The petitioner shall execute a bond to the satisfaction of the concerned Court to be fixed by its own discretion. If any confiscation is ordered in future, the vehicle must be surrendered to the first respondent.



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9. With the above said condition, this Criminal Revision Case is allowed.

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NCC :Yes/No
Index :Yes/No
Internet:yes/No
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To

- 1.The Deputy Superintendent of Police,
CSCID Police Station,
Thoothukudi.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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