



Crl.R.C.(MD) No.191 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

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Manikandan

: Petitioner

Vs.

1.The State rep.by the Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
Crime No.105 of 2022.

2.Jesuraj

: Respondents

(Second respondent is *suo motu* impleaded
as per order of the Court, dated 01.03.2023
in Crl.R.C.(MD)No.191 of 2023)

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order, dated 16.11.2022 made in Cr.M.P.No.4942 of 2022 on the file of the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur and set aside the order and direct the respondent herein to grant interim custody of the vehicle viz., TATA 407 Van bearing Reg.No.TN-49-D-2171, which has been seized by the respondent herein in Crime No. 105 of 2022.

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For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.SS.Madhavan,
Government Advocate (Crl. Side), for R1.

: Mr.B.Fazil Kirmani, for R2.

ORDER

This Criminal Revision Petition is directed against order passed in Cr.M.P.No.4942 of 2022, dated 16.11.2022 on the file of the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur and direct the respondent herein to grant the interim custody of the vehicle viz., TATA 407 Van bearing Reg.No.TN-49-D-2171, which has been seized by the respondent herein in Crime No. 105 of 2022.

2. The petitioner claims to be the owner of the TATA 407 Van bearing Reg.No.TN-49-D-2171. On 01.05.2022, the respondent seized the vehicle viz., TATA 407 Van bearing Reg.No.TN-49-D-2171 and seized the vehicle as the same was used for transporting of river sand illegally without any valid license or permit and registered a case in Crime No.105 of 2022 for the offences under Section 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.



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3. The petitioner has filed a petition under Sections 451 and 457 of Cr.P.C., seeking return of the vehicle and the learned Judicial Magistrate has dismissed the application. Challenging the dismissal order, the above Criminal Revision came to be filed before this Court.

4. The main reason assigned by the learned Principal Sessions Judge, Thanjavur, for dismissal of the petition is that the petitioner has not produced any residential proof for the previous owner such as copy of Aadhar Card, Ration Card, voter ID etc., and that since the petitioner's counsel has expressed that he was not in a position to get the residential proof of the previous owner of the vehicle, dismissed the petition.

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

6. The learned Government Advocate (Criminal Side) appearing for the State would submit that the value of the vehicle is around Rs.1,50,000/-. He would further submit that the vehicle in question, is not having any previous case.



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7. The second respondent, who is the owner of the vehicle, has filed an affidavit stating that he has no objection to pass order to return the vehicle to the petitioner herein. The learned counsel for the petitioner has produced the copy of Aadhar Card of the previous owner.

8. The learned counsel for the petitioner would submit that the vehicle bearing Registration No. TN-49-D-2171 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.

9. Considering the above facts and circumstances of the case 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 and that the vehicle in dispute was not involved in any other cases, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 16.11.2022 passed in Cr.M.P.No.4942 of 2022, by the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur.



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8. Accordingly, this Criminal Revision Petition is allowed and the order dated 16.11.2022 in Cr.M.P.No.4942 of 2022 on the file of the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur, is hereby set aside and the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur, is directed to release the vehicle of the petitioner forthwith on the following conditions:-

- (a) the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable for the vehicle to the credit of the District Mineral Foundation Trust, Thanjavur District ;
- (b) on such deposit the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Five Thousand only), with two sureties for a likesum to the satisfaction of the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur ;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Principal Sessions Judge, Special Court under the Mines & Minerals (D&R) Act 1957, Thanjavur ;



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(d) the petitioner shall not alienate and shall not make any alteration in the vehicle;

(e) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

21.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das

To:-

- 1.The Principal Sessions Judge,
Special Court under the Mines & Minerals (D&R) Act 1957,
Thanjavur.
2. The the Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

ORDER MADE IN
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