



Crl.R.C.(MD) No.273 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **09.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

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Arul Viji

... Petitioner

Vs.

The Sub-Inspector of Police,
Marthandam Police Station,
represented by the Public Prosecutor
Kanyakumari District
at Nagercoil.
(Crime No.264 of 2022)

...Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.769 of 2023 on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil dated 08.02.2023 and to set aside the order as far as concerned the onerous condition No.i) alone imposed and to modify the same.



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For Petitioner : Mr.S.C.Herold Singh,
For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl. side)

ORDER

This Criminal Revision Petition is directed against the condition No.(i) imposed by the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, in the order passed in Crl.M.P.No.769 of 2023 dated 08.02.2023.

2. The petitioner claims to be the owner of Tata Earth Moving Machine bearing Registration No.TN-18-F-1139. On 24.05.2022, the respondent police seized the Tata Earth Moving Machine bearing Registration No.TN-18-F-1139 as the same was used for loading red soil illegally without any valid license or permit and registered a case in Crime No.264 of 2022 for the offence under Section 379 IPC.

3. It is not in dispute that the petitioner has approached the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, for returning of



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the said vehicle in Crl.M.P.No.769 of 2023 and the learned Principal Sessions Judge, vide order dated 08.02.2023, has allowed the petition with certain condition that the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) before the Judicial Magistrate No.1, Kuzhithurai. Challenging the above said condition, the above Criminal Revision came to be filed before this Court.

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

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is not having any previous cases for similar offence and that the said vehicle was not involved in any other previous case. He would further submit that the value of the said vehicle is around Rs.10,00,000/-.

6. The learned counsel appearing for the petitioner would submit that the petitioner's vehicle was never involved in any illegal activity and the respondent



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police without verifying the same has foisted the above false case. He would further submit that the petitioner's family is depending upon the income deprived from the above said vehicle.

7. The main grievances of the petitioner is that the condition imposed by the learned Principal Sessions Judge in directing the petitioner to deposit a sum of Rs.1,00,000/- is onerous and that the value of the vehicle will be deteriorated due to the exposure to sun and rain.

8. Considering the above facts and circumstances of the case and also the fact that the petitioner's vehicle was not involved in any other case and also taking note of the submission made by the learned counsel appearing for the petitioner that the condition No.(i) imposed by the learned Principal Sessions Judge is onerous, this Court is inclined to modify the condition.

9. In the result, this Criminal Revision Petition is allowed. The order of the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, made in CrI.M.P.No.769 of 2023, dated 08.02.2023 is modified in respect of the condition



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WEB COPY No.(i) alone and it is modified to the effect that 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, Kanniyakumari District and also to execute a bond for a sum of **Rs.4,00,000/- (Rupees Four Lakhs only)** with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate Court No.I, Kuzhithurai. In respect of other conditions, the order of the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, shall remain unaltered.

09.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
csm

To:-

- 1.The Principal Sessions Judge,
Kanniyakumari District at Nagercoil.
- 2.The Sub-Inspector of Police,
Marthandam Police Station,
Kanniyakumari District
at Nagercoil.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

csm

**ORDER MADE IN
Crl.R.C.(MD)No.273 of 2023**

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