



Crl.RC.(MD).No.901 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	30.08.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD).No.901 of 2023

Sakthivek

.. Petitioner

Vs.

The State rep.by
The Inspector of Police,
Chinthamanipatti Police Station,
Karur.
(Crime No.40 of 2022)

.. Respondent

PRAYER:Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.949 of 2022 dated 27.04.2022 on the file of the learned Principal Sessions Judge, Karur and modify the onerous conditions No.1.

For Petitioner : Mr.S.Gokul Raj

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



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ORDER

This Criminal Revision Case has been filed against the condition No.1 imposed on the petitioner in Crl.M.P.No.949 of 2022 dated 27.04.2022, by the learned Sessions Judge, Karur.

2. The petitioner is the owner of Tractor bearing registration No.TN-24-H-2533. According to the petitioner, the petitioner's vehicle is said to have been involved for the offence under Sections 379 of IPC and Section 21(1) of Mines and Minerals Act 1957.

3. Pending investigation on the file of the respondent police, the petitioner filed Crl.M.P.No.949 of 2022, on the file of the learned Sessions Judge, Karur, under Section 451 of Criminal Procedure Code 1973, to return the vehicle.

4. The learned Principal Sessions Judge, Karur, allowed the petition filed by the petitioner with the following conditions:



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(i)The petitioner is directed to surrender the original R.C.Book and also to deposit a sum of Rs.50,000/- before this Court in Crime No.40 of 2022 of Chinthamanipatti Police Station and Compliance of the condition, the above vehicle which was remanded in R.P.No.39 of 2022 of Judicial Magistrate No-I, Kulithalai shall be returned to the petitioner on interim custody.

(ii)Further the petitioner shall execute a bond for the value of the vehicle to the satisfaction of the Judicial Magistrate No-I, Kulithalai.

(iii)The petitioner shall file an undertaking affidavit that the vehicle will not be used in similar type of offence in future.

(iv)The petitioner should not alter the nature and character of the vehicle and he should not encumber or alienate the same without prior permission of the Court. Further he should produce the vehicle as and when required by this Court.

Challenging the first condition imposed on the petitioner in Crl.M.P.No.949 of 2022, by the learned Sessions Judge, Karur, the petitioner has filed this Criminal Revision Case.

5. The petitioner submitted that before this occurrence, the said vehicle was involved in another case and the petitioner has already surrendered the vehicle's original R.C.Book. Therefore, the petitioner is not



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in a position to produce the original R.C.Book. He further submitted that the condition imposed on the petitioner to deposit a sum of Rs.50,000/- is onerous. He is ready to deposit a sum of Rs.25,000/- and undertakes to execute the bond to the value of Rs.50,000/-. Hence, he seeks to allow this case.

6. The learned Additional Public Prosecutor submitted that for the eight years, totally 63,542 vehicles are involved in the illegal mining and transportation of the minerals. Due to the incompetency of the investigating agency, the confiscation proceedings has not be initiated. Since, the Hon'ble Full Bench, held that the investigating agency has also power to initiate complaint under Section 21 of the MMDR Act, now the investigating agency is taking steps to file the confiscation petition. Even in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat*** reported in ***2003 (1) CTC 175***, the Hon'ble Supreme Court has held that while granting relief of interim custody, reasonable conditions to be imposed. Therefore, the Court below has imposed a reasonable conditions and hence, he seeks for dismissal of this Criminal Revision Case.



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7. This Court considered arguments of the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

8. Since in this case confiscation proceeding has not been initiated, the order of the learned trial Judge to release the vehicle is in accordance with law.

9. According to the petitioner, he is not in a position to produce the original R.C.Book. The value of the vehicle is not more than a sum of Rs.50,000/- is onerous. Hence, the condition imposed on the petitioner to deposit a sum of Rs.50,000/- is onerous. He is ready and willing to deposit a sum of Rs. 25,000/- and also undertakes to execute a bond to the value of Rs.50,000/-. Therefore, the submission of the learned counsel for the petitioner is *bona fide* one and deserves to be accepted.

10. Accordingly this criminal revision case is partly allowed with the following directions:



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(i) Condition No.1, imposed on the petitioner is modified and the petitioner shall execute a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand Only) within a period of two weeks from the date of receipt of a copy of this order to the satisfaction of the Judicial Magistrate No-I, Kulithalai and the petitioner shall produce the Xerox copy of the RC book before the concerned Court.

(ii)The remaining conditions imposed by the trial Court, shall remains unaltered.

(iii)The petitioner shall deposit a sum of Rs.25,000/-, to the credit of the Crime No.40 of 2022, within a period of two weeks from the date of receipt of a copy of this order, and on such deposit, the Court below shall redeposit the same in any one of the nationalized bank in the interest bearing account.

(iv)The petitioner shall deposit a sum of Rs.5,000/-(non refundable) within a period of two weeks from the date of receipt of a copy of this order, to the account to be opened by the Registrar Judicial, Madurai Bench of Madras High Court, Madurai, in the Indian Bank, High Court Branch, Madurai, as indicated in the Hon'ble Division Bench in W.P.(MD).No.23683



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of 2023.

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(v)The investigating officer, is directed to initiate the confiscation proceedings before the learned Sessions Judge, Karur, within a period of thirty days from the date of receipt of a copy of this order.

(vi)The learned Principal Judge upon receiving such application, shall number the petition as a criminal miscellaneous petition and dispose of the same as expeditiously as possible, preferably within a period of six months from the date of receipt of the presentation of the petition.

11. List this case on 15.11.2023, for reporting compliance.

11.10.2023

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

sbn

Note: Issue order copy on 16.10.2023



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- 1.The Inspector of Police,
Chinthamanipatti Police Station,
Karur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.



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The matter is listed today under the caption “for being mentioned” at the instance of the learned counsel appearing for the petitioner.

2.The learned counsel for the petitioner submitted that there is typographical error occurred while typing the name of the petitioner in the cause title and hence, the same may be corrected.

3. In view of the above, the Registry is directed to issue fresh order copy, after correcting the name of the petitioner as "Sakthivel" in the cause title of the order dated 11.10.2023.

19.10.2023

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Note: Issue order copy Today (19.10.2023)



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19.10.2023