



CrI.RC.(MD).No.701 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	30.08.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC(MD).No.701 of 2023

Sundararajan

.. Petitioner

Vs.

The State rep.by
The Sub Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District
(Cr.No.50 of 2021)

.. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the order passed in Cr.M.P.No.1203 of 2023 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and set aside the impugned portion of the order dated 14.03.2023 directing the petitioner to deposit a sum of Rs.1,50,000/-.

For Petitioner : Mr.P.Saravana Kumar

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.1203 of 2023 dated 14.03.2023, by the learned District and Sessions Judge, Srivilliputhur, Virudhunagar District.

2. The petitioner is the owner of Tipper lorry bearing registration No.TN 96-4761. 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.

3. Pending investigation, the petitioner filed Crl.M.P.No.1203 of 2023, on the file of the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar, under Section 451 of Criminal Procedure Code 1973, to return the vehicle on interim custody.

4. The learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar, allowed the petition filed by the petitioner with the following

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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. 1,50,000/-** before the **Judicial Magistrate No.II, Sattur in Cr.No.50 of 2021 of Sattur Taluk Police Station** and on compliance of the condition, the above vehicle which was remanded in P.R.No.39 of 2023 of Judicial Magistrate Court No.II, Sattur, 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-II, Sattur.

(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.

Challenging the first condition imposed on the petitioner in Crl.M.P.No.1203 of 2023, by the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar, the petitioner has filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that since the petitioner has availed a loan under the hire purchase agreement, he is unable to produce the original RC Book. He has further submitted that the condition



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imposed on the petitioner to deposit a sum of Rs.1,50,000/- is onerous and he is ready and willing to deposit a sum of Rs.25,000/-. The learned counsel for the petitioner submitted that the petitioner also undertakes to execute bond to the value of Rs.1,50,000/-.

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

9. According to the petitioner, since he has availed a loan under the hire purchase agreement, he is unable to produce the original RC Book. The value of the vehicle is also not more than a sum of Rs.1,50,000/-. Hence, the condition imposed on the petitioner to deposit a sum of Rs.1,50,000/- is onerous. Further, he is ready to deposit a sum of Rs.25,000/- and he undertakes to execute bond to the value of Rs.1,50,000/-. 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.1,00,000/-(Rupees One Lakh Only), within a period of two weeks to the satisfaction of the Judicial Magistrate No.II, Sattur.

(ii) The petitioner shall deposit a sum of Rs.25,000/-, to the credit of the Crime No.50 of 2021, within a period of two weeks and on such deposit, the Court below shall redeposit the same in any one of the nationalized bank in the interest bearing account.

(iii) The petitioner shall produce the Xerox copy of the RC book.

(iv) The remaining conditions imposed by the trial Court, shall remain unaltered.

(v) 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 of 2023.

(vi) The investigating officer, is directed to initiate the confiscation proceedings before the learned Principal Sessions Judge, Srivilliputhur,



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Virudhunagar District, within a period of thirty days from the date of receipt of a copy of this order.

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

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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To

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1. The Sub Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.
2. The Judicial Magistrate No-II,
Sattur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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11.10.2023