



Crl.R.C.(MD) No.530 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.530 of 2023

P.Agastin

: Petitioner/Petitioner

Vs.

The State rep.by
The Sub-Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.
(Crime No.52 of 2023)

: Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order in Cr.M.P.No.2440 of 2023 passed by the District Munsif cum Judicial Magistrate Court, Radhapuram, dated 25.04.2023 and order interim custody of the Ashok Leyland Ltd., Box Tipper Lorry bearing Reg.No. TN 75 AT 9286 seized by the respondent on 18.03.2023 in Crime No.52 of 2023 to the petitioner.

For Petitioner : Mr.S.Krishna Kumar,

For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Petition is directed against the order passed in Cr.M.P.No.2440 of 2023 dated 25.04.2023 on the file of the learned District Munsif cum Judicial Magistrate Court, Radhapuram, dismissing the petition for return of property.

2. The petitioner claims to be the owner of the Ashok Leyland Ltd., Box Tipper Lorry bearing Reg.No. TN 75 AT 9286. On 18.03.2023, the respondent seized the vehicle viz., Ashok Leyland Ltd., Box Tipper Lorry bearing Reg.No. TN 75 AT 9286 as the same was loaded with heavy goods, which was in excess of the permitted weight limit and registered a case in Crime No.52 of 2023 for the alleged offences under Sections 336 IPC and 194(1) of Motor Vehicles Act and the property was produced before the learned District Munsif cum Judicial Magistrate Court, Radhapuram, in P.R.No.229 of 2023.

3. The petitioner has filed an application for return of the vehicle and the objection raised by the prosecution was that the petitioner would sell the



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vehicle and would not produce the property as and when required by the Court. But, as rightly pointed out by the petitioner, the learned Magistrate by observing that the contents of the lorry would attract the provisions of MMDR Act, dismissed the petition. Challenging the dismissal order, 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. Admittedly, FIR was not registered for any of the offences under the provision of MMDR Act. Even now, the learned Government Advocate (Criminal Side) would submit that neither the case was registered under the provision of MMDR Act nor any decision was taken to alter the case and proceed the same under the said Act.

6. The learned counsel for the petitioner would submit that the vehicle bearing Registration No. TN-75-AT-9286 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



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deteriorated and that therefore interim custody may be granted to the petitioner.

7. 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 25.04.2023 passed in Cr.M.P.No.2440 of 2023, by the learned District Munsif cum Judicial Magistrate, Radhapuram.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 25.04.2023 in Cr.M.P.No.2440 of 2023 on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram, is hereby set aside and the learned District Munsif cum Judicial Magistrate, Radhapuram, is directed to release the vehicle of the petitioner forthwith on the following conditions:-

- (a) the petitioner shall execute a bond for a sum of Rs.6,00,000/- (Rupees Six Lakhs only), with two sureties for a likesum to the



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satisfaction of the learned District Munsif cum Judicial Magistrate,
Radhapuram;

- (b) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned District Munsif cum Judicial Magistrate, Radhapuram;
- (c) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (d) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

01.06.2023

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

To:-

- 1.The District Munsif cum Judicial Magistrate,
Radhapuram.
- 2.The Sub-Inspector of Police,
Radhapuram Police Station,
Tirunelveli 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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