



Crl.R.C.(MD) No.553 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2023

CORAM:

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

Crl.R.C.(MD)No.553 of 2023

T.Dennis

... Petitioner

Vs.

The Sub Inspector of Police,
Marthandam Police Station,
represented by the Public Prosecutor
Kanyakumari District
at Nagercoil.
(Crime No.95 of 2023)

...Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401(1) of Criminal Procedure Code, to call for the records in Crl.M.P.No.39 of 2023 on the file of the learned Vacation Sessions Judge, Kanyakumari District at Nagercoil dated 04.05.2023 and to set aside the order as far as the onerous condition is concerned No.i) alone imposed that is to deposit a sum of Rs.1,00,000/- and to modify the same.



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Crl.R.C.(MD) No.553 of 2023

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

ORDER

This Criminal Revision is directed against the condition No.(i) imposed by the learned Vacation Sessions Judge, Kanyakumari District at Nagercoil, in the order passed in Crl.M.P.No.39 of 2023 dated 04.05.2023.

2. The petitioner claims to be the owner of TATA Hitachi Model Ex70 Hydraulic Excavator with GP Bucket Dozer Blade and Emergency Spares, Machine S.No.07039553. On 07.03.2023, the respondent police seized the above said vehicle as the same was used for loading soil illegally without any valid license or permit and registered a case in Crime No.95 of 2023 for the offences under Sections 379 and 511 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957.

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



Crl.R.C.(MD) No.553 of 2023

the said vehicle in CrI.M.P.No.39 of 2023 and the learned Vacation Sessions Judge, vide order dated 04.05.2023, 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.12,00,000/-.

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



Crl.R.C.(MD) No.553 of 2023

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 Vacation 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 Vacation 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 Vacation Sessions Judge, Kanniyakumari District at Nagercoil, made in CrI.M.P.No.39 of 2023, dated 04.05.2023 is modified in respect of the condition



Crl.R.C.(MD) No.553 of 2023

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 Vacation Sessions Judge, Kanniyakumari District at Nagercoil, shall remain unaltered.

07.06.2023

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

To:-

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



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Crl.R.C.(MD) No.553 of 2023

K.MURALI SHANKAR, J.

csm

**ORDER MADE IN
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07.06.2023