



Crl.R.C.(MD) No.564 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.564 of 2023

M.Marbin Nevil

... Petitioner/Petitioner

Vs.

State through
The Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.
(Crime No.55 of 2023)

... Respondent/Respondent

Prayer : This Criminal Revision has been filed under Sections 397 r/w 401 of Cr.P.C., to call for the records relating to the order passed by the learned Judicial Magistrate, Radhapuram in Cr.M.P.No.2375 of 2023 dated 21.04.2023 and set aside the same and allow this revision petition.

For Petitioner : Mr.C.Susi Kumar

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



WEB COPY



Crl.R.C.(MD) No.564 of 2023

ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No. 2375 of 2023 dated 21.04.2023 on the file of the District Munsif cum Judicial Magistrate, Radhapuram, dismissing the petition filed under Sections 451 and 457 Cr.P.C. for return of property.

2. The petitioner claims to be the owner of Ashok Leyland Ltd Box Tipper vehicle bearing Registration No.TN-75-AU-1423. On 22.03.2023, the respondent police seized the above said vehicle as the same was loaded with heavy goods, which was in excess of the permitted weight limit and registered a case in Crime No.55 of 2023 for the alleged offences under Section 336 IPC and Section 194(1) of Motor Vehicles Act and the property was produced before the learned District Munsif cum Judicial Magistrate, Radhapuram, in P.R.No.218 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 vehicle



Crl.R.C.(MD) No.564 of 2023

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 appearing for the petitioner would submit that the vehicle bearing Registration No.TN-75-AU-1423 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that if



Crl.R.C.(MD) No.564 of 2023

the vehicle is kept in open place, the value of the said vehicle will get 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 21.04.2023 passed in Cr.M.P.No.2375 of 2023, by the learned District Munsif cum Judicial Magistrate, Radhapuram.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 21.04.2023 in Cr.M.P.No.2375 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:-



Crl.R.C.(MD) No.564 of 2023

WEB COPY

- (a) the petitioner shall execute a bond for a sum of **Rs.10,00,000/- (Rupees Ten Lakhs only)**, with two sureties for a likesum to the 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; and
- (d) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

12.06.2023

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



WEB COPY



Crl.R.C.(MD) No.564 of 2023

K.MURALI SHANKAR, J.

csm

To:-

- 1.The District Munsif cum Judicial Magistrate,
Radhapuram.
- 2.The Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
Crl.R.C.(MD)No.564 of 2023**

Dated: 12.06.2023