



Crl.RC.(MD).No.789 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	30.08.02023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD).No.789 of 2023

Alagesan

.. Petitioner

Vs.

The State rep.by
The Inspector of Police,
Thiruverumbur Police Station,
Trichy District.
(Crime No.258 of 2022)

.. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside and modify the condition Nos.2, 8 and 11 passed in Crl.M.P.No.2765 of 2023 dated 27.06.2023, on the file of the learned Principal District and Sessions Judge, Tiruchirappalli District.



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For Petitioner : Mr.C.Prithiviraj
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the condition No.1 imposed on the petitioner in Crl.M.P.No.2765 of 2023 dated 27.06.2023, by the learned Principal District and Sessions Judge, Tiruchirappalli.

2. The petitioner is the owner of TATA Hitachi EX200 Excavation Machine No.200110323. 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.2765 of 2023, on the file of the learned Principal District and Session Judge, Tiruchirappalli, under Section 451 of Criminal Procedure Code 1973, to return the vehicle on interim custody.



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

(i)The petitioner shall deposit a sum of Rs. 20,000/- (Rupees Twenty Thousand only) before the District Mineral Foundation Trust, Tiruchirappalli, as non-refundable deposit.

(ii)The petitioner shall execute a bond for a sum of Rs.10,00,000/- with two sureties for a like sum each to the satisfaction of the Judicial Magistrate No.IV, Tiruchirappalli.,

(iii)The petitioner shall file an affidavit of undertaking that, he shall not use this vehicle for any offence.

(iv)The petitioner shall file an affidavit of undertaking that he will not indulge any such activities by using this vehicle.

(v)If such vehicle is used in any similar activities it will be confiscated to the State.

(vi)The petitioner shall neither sell nor encumber this vehicle.

(vii)No alteration, shall be made in the vehicle, except doing repair works to run the vehicle.

(viii)The petitioner shall produce all the documents of ownership and surrender the original R.C.Book before the concerned Judicial Magistrate.

(ix)The petitioner shall co-operate with the investigation and shall produce the vehicle when ever ordered by a Court.

(x)The Judicial magistrate No-VI,



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Tiruchirappalli shall intimate the execution of the bonds and the remittance of the non-refundable deposit, to the respondent police immediately, to release the vehicle and also intimate the concerned RTO not to transfer the ownership of the vehicle to any other third party till the disposal of the case.

(xi) The petitioner shall produce the petition mentioned vehicle before the Judicial Magistrate No-VI, Tiruchirappalli on the first working day of every English Calender month,.

Challenging the condition Nos.2, 8 and 11 imposed on the petitioner in Crl.M.P.No.2765 of 2023, by the learned principal District and Sessions Judge, Tiruchirappalli, the petitioner has filed this Criminal Revision Case.

5.The learned counsel for the petitioner submitted that the original RC book of the petitioner's vehicle is under finance with Indusland Bank. Therefore, the petitioner is not in a position to produce the original R.C.Book He further submitted that the direction to deposit a sum of Rs.10,00,000/- 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.



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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.

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,



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the order of the learned trial Judge to release the vehicle is in accordance with law.

9. According to the petitioner, the original RC book of the petitioner's vehicle is under finance with Indusland Bank. The value of the vehicle is also not more than a sum of Rs.10,00,000/-. Hence, the condition imposed on the petitioner to deposit a sum of Rs.10,00,000/- is onerous. Further, he is ready to deposit a sum of Rs.25,000/- and undertakes to execute the bond to the value of Rs.1,00,000/-. 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:

(i) Condition Nos.2, imposed on the petition 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 from the date of receipt of a copy of this order, to the satisfaction of the Judicial Magistrate No.Vi, Tiruchirappalli;

(ii) Condition No.8, imposed on the petitioner is modified and the



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petitioner shall produce the Xerox copy of the RC book to the before the concerned Judicial Magistrate.

(iii)Condition No.11, imposed on the petitioner i.e., the petitioner shall produce the petition mentioned vehicle before the Judicial Magistrate No-VI, Tiruchirappalli on the first working day of every English Calender month is set aside.

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

(v)The petitioner shall deposit a sum of Rs.25,000/- to the credit of the Crime No.258 of 2023, 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.

(vi) 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



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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.

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

(viii)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 presentation of the petition.

List this case on 15.11.2023, for “reporting compliance”.

11.10.2023

NCC :Yes/No

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Index :Yes/No

Internet :Yes/No

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Note: Issue order copy on 16.10.2023



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To

- 1.The Inspector of Police,
Thiruverumbur Police Station,
Trichy District.
- 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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K.K.RAMAKRISHNAN, J.

sbm

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