



Crl.RC.(MD).No.939 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

Crl.RC(MD).No.939 of 2023

Niruban Chakkaravarthi

.. Petitioner

Vs.

- 1.The State rep by
The Inspector of Police,
Ilayangudi Police Station,
Ilayangudi,
Sivagangai District.
(Crime No.38 of 2022)
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai.
- 3.Assistant Director,
Mines and Minerals,
Sivagangai.
- 4.Tahsildar,
Tahsildar Office,
Sivagangai District.



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5.The Manager

Sri Iswarya Finance Company,
4E/20W, East New Bus Stand,
Varatharajapuram,
Cumbum.

6.Andavar

.. Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order and modify the condition No.4 in Crl.M.P.No.1103 of 2023, on the file of the learned Principal Sessions Judge, Sivagangai, dated 13.04.2023.

For Petitioner : Mr.B.Ramamoorthi

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.1103 of 2023 dated 13.04.2023, by the learned Principal Sessions Judge, Sivagangai.



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2. The petitioner is the owner of the Tractor and Tractor bearing registration No.TN 60-J-9070. According to the petitioner, the petitioner's vehicle is said to have been involved for the offence under Sections 379 of IPC and r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957.

3. Pending investigation, the petitioner filed Crl.M.P.No.1103 of 2023, on the file of the learned Principal Sessions Judge, Sivagangai District, under Section 451 of Criminal Procedure Code 1973, to return the vehicle for interim custody.

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

(i)The petitioner shall deposit the certified copy of the Registration Certificate of the vehicle to the District Munsif cum Judicial Magistrate Court, Ilayangudi, within a period of three weeks from the date of receipt of a copy of this order;

(ii)The petitioner to get transfer to his name registered properly within a period of two months, after his name transfer, he should deposit the Certified copy of the Registration Certificate of the vehicle to the District Munsif cum Judicial



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Magistrate Court, Ilayangudi.

(iii)The petitioner/accused is to give an undertaking that the petitioner is directed to produce the original R.C.Book to the District Munsif Cum Judicial Magistrate Court, Ilayangudi, after his hypothication as per Section 110 of Cr.P.C.

(iv)The petitioner shall deposit a sum of Rs. 50,000/- before the District Munsif cum Judicial Magistrate Court, Ilayangudi, in Cr.No.38 of 2022 within a period of three weeks from the date of receipt of a copy of this order.

(v)The petitioner shall not make any alteration of the vehicle.

(vi)The petitioner shall not alienate the vehicle.

(vii)Further informed that this alleged offending vehicle hypothicated with fifth respondent/Finance Company is liable for confiscation proceedings as the case may be;

(viii)The petitioner shall produce the same before the Court as and when required until final order is passed in the confiscation proceedings;

(ix)The petitioner shall produce the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and the R.C.Book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle is a new one, sales invoice can be produced.

(x)The petitioner/owner of the vehicle should take photos with different angles of the concerned vehicle and that photos should be copied in C.D and it should be certified by the learned counsel appearing for the petitioner/owner of the vehicle along with the petitioner/owner of the vehicle on the back of the photos and shall be



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submitted before the concerned Court; and
(xi) The petitioner/owner of the vehicle shall not take the vehicle out side the district without the permission of the Court and the petitioner/owner of the vehicle should produce the vehicle when the Court directs him.

Challenging the fourth condition imposed on the petitioner in Crl.M.P.No. 1103 of 2023, by the learned Principal Sessions Judge, Sivagangai, the petitioner filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the condition imposed on the petitioner to deposit a sum of Rs.50,000/- is onerous and he is ready and willing to deposit a sum of Rs.25,000/-. He would further submit that the petitioner also undertakes to execute bond to the value of Rs.50,000/-. Hence, he seeks to allow this case.

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



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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 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, the value of the vehicle is not more than a sum of Rs.50,000/-. Therefore, the condition imposed on the



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petitioner to deposit a sum of Rs.50,000/- is onerous. Further, he is ready to deposit a sum of Rs.25,000/- and he undertakes to execute a bond to the value of Rs.50,000/-. Hence, the submission of the learned counsel for the petitioner is bona fide one and deserved to be accepted.

10. Accordingly this revision case is partly allowed with the following directions:

(i) Condition No.4, imposed on the petitioner is modified and the petitioner shall execute a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand Only) within a period of two weeks from the date of receipt of a copy of this order to the satisfaction of the District Munsif cum Judicial Magistrate Court, Ilayangudi;

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



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(iii) The petitioner shall deposit a sum of Rs.25,000/- to the credit of the crime No.38 of 2022, 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 re-deposit the same in any one of the nationalized bank in the interest bearing account.

(iv) 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.236836 of 2023.

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



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(vi) 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.

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

11.10.2023

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

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Note: Issue order copy on 16.10.2023



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To

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Ilayangudi Police Station,
Ilayangudi,
Sivagangai District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai.
- 3.Assistant Director,
Mines and Minerals,
Sivagangai.
- 4.Tahsildar,
Tahsildar Office,
Sivagangai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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