



CrI.RC.(MD).No.795 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	30.08.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC(MD).No.795 of 2023

Shanthi

.. Petitioner

Vs.

The State rep.by
The Sub Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
(Crime No.62 of 2023)

.. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the order dated 20.04.2023 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in Cr.M.P.No.1980 of 2023 and set aside the condition clause No.01 of the order that the revision petitioner has to remit a sum of Rs.1,00,000/- in Cr.No.62 of 2023 of Srivilliputhur Town and on compliance of the condition, the Tractor bearing Registration



Crl.RC.(MD).No.795 of 2023

No.TN-84-C-6144 along with attached tailor bearing registration No.TN-58-E-7120 which was remanded in P.R.No.98 of 2023 on the file of the Judicial Magistrate No-II, Srivilliputhur.

For Petitioner : Mr.P.Ganapathi Subramanian

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.1980 of 2023 dated 20.04.2023, by the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar.

2. The petitioner is the owner of Tractor bearing registration No.TN-84-C-6144 and the Trailer bearing registration No.TN-58-E-7120. 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 the Mines and Minerals (development and Regulation) Act, 1957.



Crl.RC.(MD).No.795 of 2023

3. Pending investigation, the petitioner filed Crl.M.P.No.1980 of 2023, on the file of the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar District, under Section 451 of Criminal Procedure Code 1973, to return the vehicle for interim custody.

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

(i)The petitioner is directed to surrender the original R.C.book and also to deposit a sum of Rs.1,00,000/- before the Judicial Magistrate No-II, Srivilliputtur in Cr.No.62 of 2023 of Srivilliputtur Town and on compliance of the condition, the above vehicle which was remanded in P.R.No.98 of 2023, on the file of the Judicial Magistrate No-II, Srivilliputtur shall be returned to the petitioner on interim custody.

(ii)Further, the petitioner shall execute a bond for the value of the vehicle to the satisfaction of the Judicial Magistrate No-II, Srivilliputtur.

(iii)The petitioner shall file an undertaking affidavit that the vehicle will not be used in similar type of offence in future.

(iv)The petitioner should not alter the nature and character of the vehicle and he should not encumber or alienate the same without prior permission of the Court. Further he should produce the vehicle as and when required by the Court.



Crl.RC.(MD).No.795 of 2023

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Challenging the first condition imposed on the petitioner in Crl.M.P.No. 1980 of 2023, by the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar District, the petitioner has 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.1,00,000/- 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.1,00,000/-. 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 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



Crl.RC.(MD).No.795 of 2023

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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.1,00,000/-. Therefore, the condition imposed on the petitioner to deposit a sum of Rs.1,00,000/- is onerous. Further, he is ready to deposit a sum of Rs.25,000/- and he undertakes to execute a bond to the



Crl.RC.(MD).No.795 of 2023

value of Rs.1,00,000/-. 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.1, imposed on the petitioner 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 learned Judicial Magistrate No.II, Srivilliputtur;

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

(iii) The petitioner shall deposit a sum of Rs.25,000/- to the credit of the crime No.62 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 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



Crl.RC.(MD).No.795 of 2023

WEB 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.23683 of 2023.

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

(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

sbn

Note: Issue order copy on 16.10.2023

Page 7 of 9



Crl.RC.(MD).No.795 of 2023

To
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- 1.The Sub Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar 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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Crl.RC.(MD).No.795 of 2023

K.K.RAMAKRISHNAN, J.

sbm

Crl.RC.(MD).No.795 of 2023

11.10.2023