



Crl.RC.(MD).No.785 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

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Sasikumar

.. Petitioner

Vs.

The State rep.by
The Inspector of Police,
Vangal Police Station,
Karur District.
(Crime No.373 of 2022)

.. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and modify the order dated 14.06.2023, made in Crl.M.P.No.821 of 2023, before then learned Principal District & Sessions Judge Karur, Karur District insofar as Condition No:(i) is concerned.

For Petitioner : Mr.B.Santhanam Rajesh Kumar

For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor



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ORDER

This Criminal Revision Case has been filed against the condition No.1 imposed on the petitioner in Crl.M.P.No.821 of 2023 dated 14.06.2023, by the learned Principal District and Sessions Judge, Karur District.

2. The petitioner is the owner of the bullock cart. According to the petitioner, the petitioner's vehicle is said to have been involved in the offence on 28.07.2022 under Sections 379 of IPC r/w 21(1) of Tamil Nadu Mines and Minerals Act. On the same day, bullock cart was seized and kept under the custody of the respondent police.

3. Pending investigation, the petitioner filed Crl.M.P.No.821 of 2023, on the file of the learned Principal District and Sessions Judge, Karur District, under Section 451 of Criminal Procedure Code 1973, to return the vehicle.



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

(i) The petitioner is directed to deposit a non-refundable fund for a sum of Rs.40,000/- before the District Mediation Center, Karur without prejudice to the defence to be taken by the petitioner in the criminal case and on such deposit and production of the receipt thereof and in compliance of the condition, the bullock cart which was remanded in R.P.No.52 of 2023 of the learned Judicial Magistrate No-II, Karur shall be returned to the petitioner on interim custody.

(ii) Further, the petitioner shall execute a bond for a sum of Rs.1,00,000/- with two sureties like such sum to the satisfaction of the learned Judicial Magistrate No-II, Karur. One surety shall be the blood relative of the petitioner.

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

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

(v) The sand on the bullock cart shall be handed over to the Revenue Divisional Officer concern. The receipt of the same shall be produced before the learned Judicial Magistrate concern. Further, the Revenue Divisional Officer concern should auction the sand in accordance with law.



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(vi) If sand is not available on the vehicle, “non availability certificate” shall be issued by the respondent police to the petitioner and the same shall be produced before the learned Judicial Magistrate concern. At any rate, the property I.e.,sand shall not be handed over to either the petitioner or to the respondent police.

Challenging the first condition imposed on the petitioner in Crl.M.P.No.821 of 2023, by the learned Principal District and Sessions Judge, Karur 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.40,000/- is onerous and he is ready and willing to deposit a sum of Rs.10,000/-. The learned counsel for the petitioner submitted that the petitioner also undertakes to execute bond to the value of Rs.40,000/-.

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



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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 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.



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9. According to the petitioner, the value of the vehicle is not more than a sum of Rs.40,000/-. Therefore, the condition imposed on the petitioner to deposit a sum of Rs.40,000/- is onerous. Further he is ready to deposit a sum of Rs.10,000/- and he undertakes to execute bond to the value of Rs.40,000/-. 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) The Condition No.1, imposed on the petitioner is modified and the petitioner shall execute a bond for a sum of Rs.40,000/- (Rupees Forty Thousand Only) within a period of two weeks to the satisfaction of the Judicial Magistrate No-II, Karur.

(ii) The petitioner shall deposit a sum of Rs.10,000/- to the credit of Crime No.373 of 2022, within a period of two weeks and on such deposit, the Court below shall redeposit the same in any one of the nationalized bank in the interest bearing account.



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

(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, is directed to initiate the confiscation proceedings before the learned Principal District and Sessions Judge, Karur District, within a period of thirty 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



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months from the date of the presentation of the petition.

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11. List this case on 15.11.2020, for “reporting compliance”.

11.10.2023

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

sbm

To

- 1.The Inspector of Police,
Vangal Police Station,
Karur District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

Note: Issue order copy on 16.10.2023



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K.K.RAMAKRISHNAN, J.

sbm

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11.10.2023