



Crl.RC.(MD).No.839 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	05.09.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Gopal @ Gopalakrishnan

.. Petitioner

Vs.

The State rep through
The Sub Inspector of Police,
Eraniel Police Station,
Nagercoil, Kanyakumari District.
Crime No.159 of 2023

.. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the first condition of the order in Crl.M.P.No.3703 of 2023 in Crime No.159 of 2023, dated 18.07.2023, on the file of the learned Principal Sessions Judge, Nagercoil, Kanniyakumari District.



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For Petitioner : Mr.B.Muneeswaran
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.3703 of 2023 dated 18.07.2023, by the learned Principal Sessions Judge, Nagercoil, Kanniyakumari District.

2. The petitioner is the owner of the TATA Hitachi Model EX70 Prime (Serial No.P070-20198). According to the petitioner, the petitioner's vehicle is said to have been involved for the offence under Sections 379 of IPC r/w 21(1) of Tamil Nadu Mines and Minerals Act.

3. Pending investigation, the petitioner filed Crl.M.P.No.3703 of 2023, on the file of the learned Principal Sessions Judge, Nagercoil, Kanniyakumari District, under Section 451 of Criminal Procedure Code 1973, to return the vehicle for interim custody.



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

(i)The petitioner shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh only) before the Judicial Magistrate, Eraniel.

(ii)The petitioner shall produce the original Invoice and Photograph of the Hitachi before the Judicial Magistrate Eraniel

(iii)The petitioner shall produce the Hitachi before the Court as and when required

(iv)The petitioner should not alter the nature of the Hitachi without any permission of this Court.

(v)The petitioner shall alienate the Hitachi in any manner.

(vi)The petitioner shall give an undertaking that he will not use the Hitachi for any other illegal activities in future.

(vii)The petitioner shall produce the Hitachi before the Judicial Magistrate, Eraniel on the first working day of every month at 10.30 a.m., until further orders.

Challenging the first condition imposed on the petitioner in Crl.M.P.No. 3703 of 2023, by the learned Principal Sessions Judge, Nagercoil, Kanniyakumari District, the petitioner filed this Criminal Revision Case.



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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 a 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 ***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.



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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/-. Hence, 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 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 No.1, imposed on the petitioner is modified and the



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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, Eraniel

(ii)The petitioner shall deposit a sum of Rs.25,000/- to the credit of the Crime No.159 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.

(iii) Condition No.VII, ie., the petitioner shall produce the vehicle beofre the Judicial Magistrate Court, Eraniel, on first working day of every month at 10.30 a.m, until further orders **is hereby set aside.**

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

(v)The petitioner sahll 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.



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

(vii) 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.

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



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To

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- 1.The Sub Inspector of Police,
Eraniel Police Station,
Nagercoil, Kanyakumari 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.

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