



CrI.RC.(MD).No.1034 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	15.09.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC(MD).No.1034 of 2023

Arjunan

.. Petitioner

Vs.

1.The State rep through
The Inspector of Police,
Manamadurai Police Sation,
Manamadurai, Sivagangai District.
Crime No.305 of 2023

2.The Branch Manager
Ganapathi Motors,
13/48/1-1, R.I.Office Road,
Bodinayakanur,
Theni District 625 513

.. Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call fro the entire records related to the impugned order passed by the learned Principal District and Sessions Judge, Sivagangai in Cr.M.P.No.3648 of 2023, dated 30.08.2023 and set aside the

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condition No.VI imposed in the same impugned order and consequently direct the Judicial Magistrate, Manamadurai to accept the photo copy of the Original Registration Certificate of the petitioner's vehicle bearing registration No.TN-25-Q-9589, within the stipulated time.

For Petitioner : Mr.R.Senthil Kumar

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.3648 of 2023 dated 30.08.2023, by the learned Principal Sessions Judge, Sivagangai District.

2. The petitioner is the owner of the Bharat Benz Lorry bearing Registration No.TN-25-Q-9589. 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(4) of the Mines and Minerals (Development and Regulations) Act 1957.



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3. Pending investigation, the petitioner filed Crl.M.P.No.3648 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, Sivaganagai, allowed the petition filed by the petitioner with the following conditions:

(i)The petitioner/owner of the vehicle shall deposit a sum of Rs.50,000/-(Rupees Twenty Five Thousand only) as non-refundable deposit to the medication and conciliation Centre, Sivagangai and he shall produce the receipt for the payment of the above deposit, along with memo before the learned Judicial Magistrate, Manamaduari.

(ii)The petitioner is directed to execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) for the like sum to the satisfaction of the learned Judicial Magistrate, Manamadurai;

(iii)The petitioner shall not make any alternation or to alienate the vehicle in any manner till the disposal of the case;

(iv)The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future before the learned judicial Magistrate, Manamadurai;

(v) The petitioner shall produce the vehicle



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as and when required by the Court

(vi) The petitioner shall produce original Registration certificate pertaining to the vehicle before the judicial Magistrate Court at Manamadurai.

Challenging the sixth condition imposed on the petitioner in Crl.M.P.No. 3648 of 2023, by the learned Principal Sessions Judge, Sivagangai, the petitioner has filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the petitioner's vehicle is in hypothecation for loan obtained by him in the second respondent office and the second respondent has refused to give the original registration certificate to the petitioner. Hence, the petitioner is not in a position to produce the original Registration Certificate before the Court. Therefore, 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



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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 confiscation proceeding has not been initiated in this case, the order of the learned trial Judge, to release the vehicle, is in accordance



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with law.

9. According to the petitioner, the petitioner's vehicle is in hypothecation for loan obtained by him in the second respondent office and the second respondent has refused to give the original registration certificate to the petitioner. 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.VI, imposed on the petitioner is modified and the petitioner shall produce the Xerox copy of the RC book, before the Court below.

(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.305 of 2023, within a period of two weeks from the date of



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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, is directed to initiate the confiscation proceedings before the learned Principal Sessions Judge, Sivagangai 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.



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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 17.10.2023



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To

- 1.The Inspector of Police,
Manamadurai Police Sation,
Manamadurai, Sivagangai 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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11.10.2023