



Crl.RC.(MD).No.619 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	30.09.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Thirisangu

.. Petitioner

Vs.

1.The State Represented through,
The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
(Crime No.285 of 2021)

2.The Sub-Collector,
Paramakudi,
Ramanathapuram District.

3.The Assistant Director,
Geology and Mining Department,
Ramanathapuram District.

4.The Tahsildar,
Taluk Office,
Kamuthi Taluk.

.. Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for and set aside the impugned “condition



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No.2” made in the impugned order dated 24.01.2022 in Cr.M.P.No.3280 of 2021, on the file of the learned Principal Sessions Judge, Ramanathapuram, and consequently, to direct the 1st respondent to return the petitioner's vehicle, namely, JCB vehicle bearing registration number TN-28-AP-9675 to the petitioner forthwith.

For petitioner :Mr.M.S.Jeyakarthik

For Respondents :Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the condition No.2 imposed on the petitioner in Cr.MP.No.3280 of 2021 dated 24.01.2022, by the learned Principal Sessions Judge, Ramanahapuram.

2. The petitioner is the owner of JCB bearing registration No.TN-28-AP-9675. According to the petitioner, the petitioner's vehicle is said to have been involved for the offence under Sections 379 of IPC and Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957.



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3. Pending investigation, the petitioner has filed Cr.MP.No.3280 of 2021, on the file of the learned Principal Sessions Judge, Ramanahapuram, under Sections 451 and 457 of Criminal Procedure Code 1973, to return the vehicle for interim custody.

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

*(1) The petitioner shall execute a bond for a sum of **Rs.2,00,000/-** with two sureties for like sum to the satisfaction of the learned Judicial Magistrate concern. One surety shall be the blood relative of the petitioner.*

*(2) The petitioner is directed to remit a sum of **Rs.2,50,000/-** for the above said vehicle as costs within a period of two weeks from the date of receipt of a copy of this order; by way of an individual **Deposit** in favour of the District Legal Services Authority, Ramanathapura, who shall receive the said amount as **“Environmental Fund”** and make use of the said amount for the purposes mentioned in the order passed by the Hon'ble Madurai Bench of Madras High Court in **CRP(NPD)No.1643 of 2010 dated 20.06.2018 D.Govindasamy Vs. L.Ganesh Naidu (Deceased) and 2 others**. Further, the petitioner shall produce the receipt for the remit of the same from the concern authority at the time of furnishing security before the learned Judicial Magistrate Authority at the time of furnishing security before the learned*



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Judicial Magistrate concern.

*(3)The petitioner shall take the photograph of the vehicle in its all four sides in the presence of the Inspector of Police, **Abiramam P.S** and produce the photographs in 8 numbers along with C.D before the learned Judicial Magistrate concern.*

(4) The petitioner is directed not to change or alter the condition of the vehicle.

(5) The custody is purely interim in nature subject to the final order to be passed u/s 21(4-A) of the Act.

(6)The petitioner is directed to produce the original R.C.Book at the time of furnishing sureties.

(7)The petitioner shall give an affidavit understanding that he will not use the vehicles for any illegal activities and will not involve himself in any more cases. If this undertaking is breached, the petitioner will not be entitled to interim release of the vehicle in future.

(8) The petitioner shall produce the same as and when required by the respondents.

(9) The sand on the vehicle shall be handed over to the Revenue Divisional Officer concern and the receipt for the same shall be produced before the learned Judicial Magistrate concern. Further, the Revenue Divisional Officer concern shall auction the sand in accordance with law.

(10)if sand is not available on the vehicle, “non availability certificate” shall be obtained from the respondent police and the same shall be produced before the learned Judicial Magistrate concern. At any point, the property I.e., sand shall not be handed over to either the petitioner or to the respondent police.



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Challenging the second condition imposed on the petitioner in Cr.MP.No. 3280 of 2021, by the learned Principal Sessions Judge, Ramanahapuram, 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.2,50,000/- 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.2,50,000/-. 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 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***



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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 condition imposed on the petitioner to deposit a sum of Rs.2,50,000/- 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.2,50,000/-. Hence, the submission of the learned counsel for the petitioner is *bona fide* one and deserved to be accepted.



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

(i) Condition No.2, imposed on the petitioner is modified and the petitioner shall execute a bond for a sum of Rs.2,50,000/-(Rupees Two Lakhs Fifty Thousan Only) within a period of two weeks from the date of receipt of a copy of this order, to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Kamuthi;

(ii) The petitioner shall deposit a sum of Rs.25,000/- to the credit of the crime No.285 of 2021, 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.

(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



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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, Ramanathapuram 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

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Note: Issue order copy on 17.10.2023



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To

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- 1.The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
- 2.The Sub-Collector,
Paramakudi,
Ramanathapuram District.
- 3.The Assistant Director,
Geology and Mining Department,
Ramanathapuram District.
- 4.The Tahsildar,
Taluk Office,
Kamuthi Taluk.
- 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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