



Crl.R.C(MD)No.513 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.513 of 2018

A.Ramesh

... Petitioner/Petitioner

Vs.

1.The Inspector of Police,
Vasudevanallur Police Station,
Sivagiri Taluk,
Tirunelveli District.
In Crime No.02 of 2018.

2.The Branch Manager,
Sakthi Finance Limited,
No.100A/4, Thiruthangal Road,
Marutham Hotel Upstairs,
Sivakasi – 626 123.

... Respondents/Respondents

(R – 2 impleaded vide order made in
Crl.M.P(MD)No.7660 of 2018, dated 04.10.2018)

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order passed in Cr.M.P.No.2304 of 2018, dated 05.07.2018 on the file of the learned Judicial Magistrate, Sivagiri and set aside the same and consequently directing the learned Judicial Magistrate, Sivagiri to release the vehicle JCB Earth moving equipment (LMV) bearing Registration Nos.TN-67-AD-1710 and Chasis No.01484569 and Engine No.H00000718 as interim custody to the petitioner.



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For Petitioner : Mr.C.Susi Kumar
For R – 1 : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)
For R – 2 : No appearance

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.2304 of 2018, dated 05.07.2018, on the file of the learned Judicial Magistrate, Sivagiri and consequently directing the learned Judicial Magistrate, Sivagiri, to release the vehicle JCB Earth moving equipment (LMV) bearing Registration Nos.TN-67-AD-1710 and Chasis No.01484569 and Engine No.H00000718 as interim custody to the petitioner, thereby dismissing the petition for the return of property.

2.The petitioner is an accused in Crime No.2 of 2018 registered for the offence under section 379 of IPC.

3.The case of the prosecution is that the petitioner along with another accused illegally transported the river sand in the tractor cum trailer JCB vehicle. In pursuant to the registration of the



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F.I.R, the vehicles were seized from the accused and produced before the trial Court in P.R.No.34 of 2018 on 30.01.2018.

4.In so far as the JCB vehicle bearing Registration No.TN-67-AD-1710 is concerned, the petitioner filed a petition in Cr.M.P.No.2304 of 2018 on the file of the learned Judicial Magistrate, Sivagiri, for the return of the property, which was dismissed on the ground that the vehicle was purchased through private financier viz., Shakthi Finance Limited and there was a due to the tune of Rs.13,14,800/-. Therefore, the private finance company is only entitled to file a petition to return the property. That apart, the original registration certificate of the vehicle was in possession of the private financier.

5.It is seen that for the past five years, the vehicle is standing in the respondent police station without use of anybody. The financier also did not take any steps to return the vehicle so far. That apart the respondent filed a final report and the same has been taken cognizance in C.C.No.72 of 2018 on the file of the learned Judicial Magistrate, Sivagiri and it is pending trial. So far, the prosecution did not examine any witnesses.



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6. In view of the above facts and circumstances, the order passed in Cr.M.P.No.2304 of 2018, dated 05.07.2018, on the file of the learned Judicial Magistrate, Sivagiri, is set aside and the Criminal Revision Case is allowed. The learned Judicial Magistrate, Sivagiri is directed to return the vehicle, subject to the fulfillment of the following conditions by the petitioner:-

(i) Accordingly, the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sivagiri, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall produce the certified copy of the Registration Certificate of the vehicle before the concerned Court, since the original Registration Certificate was in the custody of the Financier.

(iii) the petitioner shall give an unconditional undertaking to the first respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings.



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(iv) the petitioner shall not change the colour and scheme of the vehicle.

(v) the petitioner shall not use the vehicle for any illegal activities.

(vi) before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vii) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the first respondent.

(viii) As and when the first respondent call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the first respondent.

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



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To

- 1.The Judicial Magistrate,
Sivagiri.
- 2.The Inspector of Police,
Vasudevanallur Police Station,
Sivagiri Taluk,
Tirunelveli District.



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G.K.ILANTHIRAIYAN, J.

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Order made in
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