



Crl.R.C.(MD) No.1227 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :29.11.2023

CORAM:

THE HON'BLE MR JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1227 of 2023

Arul Viji

... Petitioner/Petitioner/

Vs.

Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

... Respondent/Respondent/

Prayer : This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records and set aside the first condition in Para 7(1) imposed on the petitioner in Crl.M.P.No.2690 of 2023 dated 01.06.2023 on the file of the Principal Sessions Judge, Kanniyakumari District at Nagercoil and allow the Criminal Revision Petition.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Petition is filed to call for the records and set aside the first condition in Para 7(1) imposed on the petitioner in Crl.M.P.No.2690 of 2023 dated 01.06.2023 on the file of the Principal Sessions Judge, Kanniyakumari District at Nagercoil and allow the Criminal Revision Petition.

2. The learned counsel for the revision petitioner submitted that the petitioner is the owner of the Mahindra & Mahindra Tempo bearing Registration No.TN 83 5982. On the date of occurrence (i.e) on 18.03.2023 at about 02.00 a.m, it is alleged that the petitioner vehicle transported the river sand without proper permission. Therefore, the respondent registered a case in Crime No.112 of 2023 for the offence under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. The petitioner as the owner of the vehicle filed a petition under Section 451 of Cr.P.C in Crl.M.P.No. 2690 of 2023, before the learned Principal Sessions Judge, kanniyakumar District at Nagercoil, for return of vehicle and the same was allowed on 01.06.2023, with certain conditions.



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3. The learned Sessions Judge, while granting the order of return of vehicle, imposed the certain conditions upon the petitioner. One of the conditions (1) is that *"the petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) before the Judicial Magistrate No.I, Kuzhithurai"*.

4. The learned counsel for the petitioner submitted that the petitioner's vehicle is not involved in the above said commission of offence. He would further submit that due to financial crisis, the petitioner is unable to deposit a sum of Rs.1,00,000/-(Rupees One Lakh only) before the Judicial Magistrate No.I, Kuzhithurai. Hence, this Court may set aside the above said condition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

6. The main grievance of the petitioner is that the vehicle was manufactured in the year 2005 and the condition imposed by the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, in directing the petitioner to deposit a sum of Rs.1,00,000/-(Rupees One Lakh only) before the learned Judicial Magistrate No.I, Kuzhithurai is onerous.



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7. Considering the above facts and circumstances of the case and also considering the oldness of the vehicle, the order of the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, made in Crl.M.P.No.2690 of 2023, dated 01.06.2023 is modified in respect of the condition No.(i) alone and it is modified to the effect that the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the learned Judicial Magistrate No.I, Kuzthithurai. The other conditions (ii) to (vii) shall remain unaltered.

8. In the result, the Criminal Revision Case is allowed, accordingly.

29.11.2023

Index : Yes/No
Internet : Yes/No
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To:-

1. The Principal Sessions Judge, Kanniyakumari District at Nagercoil.
2. Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P.VADAMALAI,J

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ORDER MADE IN
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