



Crl.R.C.(MD) No.1262 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

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Malairajan

**... Petitioner/Petitioner/
owner of the vehicle**

Vs.

**The State represented by,
The Sub-Inspector of Police,
Vikkiramangalam Police Station,
Madurai District.**

**... Respondent/Respondent/
Complainant**

Prayer : This Criminal Revision Case has been filed under Sections 397 and 401 of Criminal Procedure Code, to call for the entire records pertaining to the order passed by the Special District Judge to deal with the cases of offences in contravention of the provisions of the mines and minerals (D & R) Act, Madurai in Crl.M.P.No.5330 of 2022 dated 18.10.2022 and set aside the same in respect of 7th condition and consequently direct the Judicial Magistrate, Vadipatti to return the vehicle namely Earth moving Machine (JCB) bearing its registration No.TN 22 M 9513 in connection with the case in Crime No.96 of 2022 pending on the file of the first respondent to the petitioner.



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For Petitioner : Mr.M.Pitchai Muthu
For Respondent : Mr.R.Suresh Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case is filed to call for the entire records pertaining to the order passed by the Special District Judge to deal with the cases of offences in contravention of the provisions of the mines and minerals (D & R) Act, Madurai in Crl.M.P.No.5330 of 2022 dated 18.10.2022 and set aside the same in respect of the 7th conditions and consequently direct the Judicial Magistrate, Vadipatti to return the vehicle, namely, Earth moving Machine (JCB) bearing its registration No.TN 22 M 9513 in connection with the case in Crime No.96 of 2022 pending on the file of the first respondent to the petitioner.

2. The learned counsel for the revision petitioner submitted that the petitioner is the owner of the JCB bearing Registration No.TN-22-M-9513. The first respondent seized the vehicle on the allegation that the vehicle transported river sand without any valid permit and therefore, the respondent registered a case in Crime No.96 of 2022 under Section 379 of IPC and r/w. 21(5) of Mines and Minerals (Development and Regulation) Act, 1957. The petitioner claiming



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himself as the owner of the vehicle filed a petition under Section 451 of Cr.P.C in Crl.M.P.No.5330 of 2022, before the Special District Judge, MMDR Court, Madurai for returning of vehicle and the same was allowed on 18.10.2022, with certain conditions.

3. The learned Magistrate, while granting order of return of vehicle, imposed the certain conditions upon the petitioner, one of the condition is that *the petitioner-owner-accused No.2 shall deposit a sum of cash surety of a sum of Rs.1,00,000/- into the Court of the learned Judicial Magistrate, Vadipatti to the credit of this case and also execute a bond for a sum of Rs.1,00,000/- along with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate, Vadipatti.*

4. The grievance of the learned counsel for the petitioner is that the petitioner's vehicle is not involved in the above said commission of offence. He would further submit that the petitioner's income is based on the said JCB, he was not in a position to arrange the funds. Hence, the petitioner is unable to complied with the following conditions. Therefore, this Court is to set aside the above said condition.



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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 2013 and that the condition imposed by Special District Judge to deal with the cases of offences in contravention of the provisions of the mines and minerals (D & R) Act, Madurai, in directing the petitioner to deposit a sum of Rs. 1,00,000/-(Rupees One Lakh only) and also execute a bond for a sum of Rs. 1,00,000/-(Rupees One Lakh only) along with two sureties is onerous.

7. Considering the above facts and circumstances of the case and also considering the oldness of the vehicle, the order of the learned Special District Judge to deal with the cases of offences in contravention of the provisions of the mines and minerals (D & R) Act, Madurai, made in Crl.M.P.No.5330 of 2022, dated 18.10.2022 is modified in respect of the condition No.7(vii) alone, to the effect that the petitioner is directed to deposit a sum of Rs.50,000/-(Rupees fifty Thousand only) before the Judicial Magistrate Vadipatti to the credit of this case and also execute a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only)



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along with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate within a period of two weeks from the date of receipt of copy of this order. The petitioner shall file an undertaking affidavit to the effect that he will not alter or change the vehicle. The other conditions shall remain unaltered.

In the result, the Criminal Revision Case is allowed.

05.01.2023

Index : Yes/No

Internet : Yes/No

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To:-

1.Special District Judge to deal with the cases of offences in contravention of the provisions of the mines and minerals (D & R) Act, Madurai.

2.The State represented by,
The Sub-Inspector of Police,
Vikkiramangalam Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA, J,

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ORDER MADE IN
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