



CrI.O.P.(MD) No.334 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.01.2024

PRONOUNCED ON : 26.03.2024

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P (MD) No.334 of 2024

Mahendiran

...Petitioner

VS

**The Sub Inspector of Police,
Vachakkarapatti Police Station,
Virudhunagar District.
Crime No.163 of 2023**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order passed in unnumbered Cr.M.P..... in R5137/2023 on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, dated 15.12.2023 and further direct the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur to number the petition and dispose the same in accordance with law.

For Petitioner : Mr.S.M.Anantha Murugan

**For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor**



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ORDER

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The learned Counsel for the Petitioner submits that the Petitioner had filed this Petition to set aside the order passed by the learned Principal District and Sessions Judge, Virudhunagar District, refusing to number the petition in Unnumbered Cr.M.P..... in R5137/2023 dated 15.12.2023.

2.It is the contention of the learned Counsel for the Petitioner that the Petitioner is the owner of Mahindra Tractor bearing Reg.No. TN 95 H 4587. The Respondent Police seized the Petitioner's vehicle stating that it was involved in transporting savudu sand without obtaining permission from the Authorities. As per the prosecution case, on 05.08.2023, when the Special Team of the Respondent Police were on duty to prevent the illegal mining and transport of minerals by around 04.30 pm., the Special Team stopped the vehicle and found out that the Petitioner was transporting savudu sand without any permission to M/s. Lakshmi Fireworks. Therefore, the Special Team seized the Mahindra Tractor bearing Reg.No.TN 95 H 4587 along with Trailer bearing Reg.No.TN 67 K 5850. The Respondent Police produced the vehicle before the learned Principal District and Sessions Judge, Srivillipuur, Virudhunagar District.



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3.It is his further submission that the Petitioner filed a Petition under Section 451 Cr.P.C., seeking return of the vehicle along with Trailer, pending disposal of the criminal case. The learned Principal District and Sessions Judge, Srivillipuur, Virudhunagar District, returned the Petition stating that the Respondent Police had filed a Petition to confiscate the property in Cr.M.P.No.6587 of 2023. Aggrieved over the same, the Petitioner had filed this Petition seeking to set aside the order passed by the learned Principal District and Sessions Judge, Srivillipuur, Virudhunagar District, returning the Petition stating that the Petition filed by the Respondent Police for confiscation of the property is pending.

4.It is the further contention of the learned Counsel for the Petitioner that until or unless, the criminal case ends up in conviction, the Respondent Police cannot confiscate the seized property. The property is retained under judicial custody in open place exposing it to the vagaries of nature. On exposure to vagaries of nature, the value of the property will decrease, thereby affecting the Petitioner. Therefore, he seeks to set aside the order passed by the learned Principal District and Sessions Judge, Srivillipuur, Virudhunagar District.



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5.The learned Government Advocate (Crl.side) vehemently objects to the submission of the learned Counsel for the Petitioner stating that the Petition itself is not maintainable, as the learned Principal District and Sessions Judge, Srivilliputhur, Virudhunagar District, returned the Petition filed by the Petitioner as not maintainable, when the prosecution had filed a Petition seeking to confiscate the property. This Petition has no merit and it has to be dismissed.

6.The point for consideration is whether a direction is issued to the learned Principal District and Sessions Judge, Srivillipuur, Virudhunagar District to number the petition?

7.Heard the learned Counsel for the Petitioner and the learned Government Advocate (Crl.side) for the Respondent.

8.On consideration of the rival submissions and on perusal of the provisions of Mines and Minerals (Development and and Regulation) Act, 1957, it is found that Section 30-B of the Mines and Minerals (Development and Regulation) Act, 1957 reads as under:-



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“30B. Constitution of Special Courts.-(1) The State Government may, for the purposes of providing speedy trial of offences for contravention of the provisions of sub-section (1) or sub-section (1A) of section 4, constitute, by notification, as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) A Special Court shall consist of a Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is or has been a District and Sessions Judge.

(4) Any person aggrieved by the order of the Special Court may prefer an appeal to the High Court within a period of sixty days from the date of such order.”

9.Section 30-C of the Mines and Minerals (Development and Regulation) Act, 1957 reads as under:-

“30-C. Special Courts to have powers of Court of Session.-*Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to the proceedings before the Special Court and for the purpose of the provisions of this Act, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session*



and the person conducting a prosecution before the Special Court shall be deemed to be a public prosecutor.”

10.The Courts constituted under the Mines and Minerals (Development and Regulation) Act, 1957, shall be deemed to be a Special Court, a Court of Session and shall have all the powers of Court of Sessions. While so, it is the submission of the learned Counsel for the Petitioner that the petition filed seeking return of the vehicle is to be numbered by the learned Sessions Judge as a petition under Chapter XXXIV for disposal of the property and any other petition filed in the ordinary course of the proceedings before the learned Sessions Judge for interim custody of the vehicle or for return of the vehicle seized by any of the Officers of the State either the Police Department or the Forest Department or the Revenue Department, as the case may be. Instead, the learned Sessions Judge had returned the petition not numbering the same. Therefore, the point for consideration is answered in favour of the Petitioner herein.

In fine, ***this Criminal Original Petition is allowed.*** The learned Principal District and Sessions Judge, Virudhunagar District, is directed to



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number the petition, issue notice to the Public Prosecutor or the specially appointed Public Prosecutor, hear the objections of the learned Counsel on either side and shall pass appropriate orders in one way or the other.

Internet :Yes./No
Index :Yes/No
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26.03.2024

To

- 1.The Sub Inspector of Police,
Vachakkarapatti Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
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