



Crl.R.C.(MD).No.88 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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... Petitioner/Petitioner

Vs.

1.The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
(In Crime No.122 of 2022)

2.The Manager,
Kamala Credit Corporation,
No.4, Kalathi Pillai Street,
Sowcarpet, Chennai-79.

... Respondent/Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to order passed by the learned Principal sessions Judge, Sivagangai, in Crl.M.P.No.4492 of 2023 dated 11.12.2023 and set aside the II and IV condition imposed in the order against this petitioner by allowing this Criminal Revision Petition.



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For Petitioner : Mr.P.Vijaynivas
For Respondent : Mr.M.Muthumanikkam
Government Advocate(Crl.Side)

ORDER

The Criminal Revision Case has been filed to set aside the 2nd and 4th condition imposed by the learned Principal sessions Judge, Sivagangai, in Crl.M.P.No.4492 of 2023 dated 11.12.2023.

2. The petitioner is the owner of the Tipper Lorry bearing Registration No.TN 09 AL 7923. According to the petitioner, the petitioner's vehicle is said to have been involved for the offence under Section 379 of IPC r/w Section 21(1) of Mines and Minerals Act (D&R), 1957.

3. Pending investigation, the petitioner has filed Crl.M.P.No.4492 of 2023, on the file of the learned Principal Sessions Judge, Sivagangai, under Section 451 of Criminal Procedure Code 1973, to return the vehicle for interim custody.



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

i) that the petitioner/owner of the vehicle shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable deposit to the Mediation and Conciliation Centre, Sivagangai and he shall produce the Receipt for the payment of the above deposit, along with memo before the learned District Munsif cum Judicial Magistrate, Thiruppuvanam;

(ii) the petitioner is directed to execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) for the like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Thiruppuvanam;

(iii) the petitioner shall not make any alteration or to alienate the vehicle in any manner till the disposal of the case;

(iv) the petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future before the learned District Munsif cum Judicial Magistrate, Thiruppuvanam;

(v) The petitioner shall produce the vehicle as and when required by the Court;

(vi) The petitioner shall produce Original Registration Certificate pertaining to the vehicle before



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*the District Munsif cum Judicial Magistrate Court,
Thiruppuvanam*

Challenging the 2nd and 4th condition imposed on the petitioner in Crl.M.P.No. 4492 of 2023, by the learned learned Principal Sessions Judge, Sivagangai, the petitioner filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the petitioner's vehicle is in hypothecation for loan obtains by him in the second respondent office and the second respondent has refused to give the original registration certificate to the petitioner. Hence, the petitioner is not in a position to produce the original Registration Certificate before the Court. Therefore, he seeks to allow this case.

6. The learned Government Advocate (Crl. Side) 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***



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Vs. State of Gujarat reported in ***2003 (1) CTC 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 Government Advocate (Crl. Side) for the first 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 petitioner's vehicle is in hypothecation for loan obtained by him in the second respondent office and the second respondent has refused to give the original registration certificate to the petitioner. 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 revision case is partly allowed with the following directions:

(i) Condition No.VI, imposed on the petitioner is modified and the petitioner shall produce the Xerox copy of the RC book, before the Court below.

(ii) The remaining conditions imposed by the trial Court, shall remain unaltered.

(iii) the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) as non-refundable for the vehicle to the credit of the Environmental Committee (Account No:7633863037, Registrar (Judicial), Madurai Bench of Madras High Court, Madurai,), on or before 18.06.2024.

(iv) The investigating officer, is directed to initiate the confiscation proceedings before the learned Principal Sessions Judge, Sivagangai District, within a period of thirty days from the date of receipt of a copy of this order.



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(v) The learned Principal Sessions 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.

(vi) The petitioner shall co-operate with the trial Court to complete the confiscation proceedings.

11. List this case on 19.06.2024, for “reporting compliance”.

24.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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Note: Issue Order Copy On 27.05.2024



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To

- 1.The learned Principal sessions Judge,
Sivagangai.
- 2.The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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