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Crl.O.P.(MD)No.5232 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.5232 of 2023

Abdul Rahman

... Petitioner

Vs.

State represented by
the Forest Officer,
Ramanathapuram
Ramanathapuram District.
(WLOR No.15 of 2021)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order in Crl.Rev.No.11 of 2022, dated 30.06.2022 on the file of the learned Principal District and Sessions Court, Ramanathapuram and consequently direct to release the petitioner vehicle to him.

For Petitioner : Mr.S.A.S.Alaudeen

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the proceedings of the learned Principal District and Sessions Judge, Ramanathapuram in Crl.Rev.No.11 of 2022, dated 30.06.2022,



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confirming the order passed by the learned Judicial Magistrate No.I, Ramananthapuram in Crl.M.P.439 of 2022 by an order dated 17.03.2022, dismissing the application filed by the petitioner, seeking for return of the fibre boat that was seized from the petitioner in the course of investigation in WLOR No.15 of 2021.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent Police.

4. The case of the prosecution is that the petitioner used his fibre boat and was illegally found in possession of 3 kgs of sea cucumber. Based on the complaint given, an FIR came to be registered in WLOR No.15 of 2021 for various offences under the Wildlife (Protection) Act, 1972. In the course of investigation, the fibre boat belonging to the petitioner was also seized.

5. The petitioner filed an application seeking for return of property before the learned Judicial Magistrate No.I, Ramanathapuram. The learned Judicial Magistrate by an order dated 17.03.2022 dismissed the application on the ground that once the vehicle has been seized, it



becomes the property of the State Government by virtue of Section 39(d) of the Wildlife (Protection) Act, 1972 and therefore, there is no scope for returning back the vehicle.

6. The petitioner aggrieved by the order passed by the learned Judicial Magistrate filed a revision before the learned Principal District and Sessions Judge, Ramanathapuram. This revision was dismissed by the Court below mainly on the ground that there are previous cases against the petitioner and therefore, it will not be appropriate to return back the fibre boat to the petitioner. Aggrieved by this order, the present petition has been filed under Section 482 of Cr.P.C.

7. It must be borne in mind that this Court while exercising its jurisdiction under Section 482 of Cr.P.C. cannot virtually convert this proceeding as a second revision, since there is a specific bar under Section 397(2) of Cr.P.C. The Court must only see if the Court below has properly exercised its jurisdiction.

8. The learned Magistrate has rejected the application mainly by relying upon Section 39 (d) of the Wildlife (Protection) Act, 1972. On carefully reading the language used under Section 39, it is clear that only



where it is found that a vehicle has been used for committing an offence and it has been seized under the provision of the Act, the same shall be deemed to be the property of the Government. Thus, a competent Court has to give a specific finding that the vehicle had infact been used for the purpose of commission of offence. This determination will arise only at the time of final disposal of the case and the vehicle will not automatically become the property of the Government just because an FIR is registered. Hence, while dealing with an application for return of the property, Section 39(d) of the Wildlife (Protection) Act, 1972, cannot be put against the petitioner.

9. The Sessions Court while dealing with the revision had taken into consideration the fact that there were 15 previous cases against the petitioner. At the time of hearing, it was confirmed that there are only five previous cases against the petitioner of similar nature.

10. In the considered view of this Court, the offence under the Wildlife (Protection) Act, 1972, has to be dealt with seriously, since it involves many endangered species and the orders cannot be passed as a matter of course. In the case in hand, there are five previous cases against the petitioner. Therefore, the Court below refused to order the



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application filed by the petitioner for returning back the vehicle (fibre boat). This reasoning given by the Court below does not suffer from any illegality warranting interference under Section 482 of Cr.P.C.

11. It is brought to the notice of this Court that the case is now pending in C.C.No.205 of 2024 before the learned Judicial Magistrate No.I, Ramanathapuram and it is in the stage of examination of witnesses. Therefore, it will be more appropriate to issue a direction to complete the proceedings within a time frame to be fixed by this Court. It is brought to the notice of this Court that the fibre boat that was seized from the petitioner is being safely kept in the office of the respondent.

12. In the result, the Criminal Original Petition is disposed of with a direction to the learned Judicial Magistrate No.I, Ramanathapuram, to dispose of C.C.No.205 of 2024 within a period of three months from the date of receipt of a copy of this order. The Court below shall conduct the trial on a day to day basis in line with the judgment of the Hon'ble Apex Court in the case of *Vinod Kumar Vs State of Punjab* reported in *[2015 (1) MLJ (Crl) 288 SC]*. If the petitioner adopts any dilatory tactics, the Court below shall proceed proceeded further against the petitioner in line with the judgment of the Hon'ble Supreme Court in the case of *STATE*



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OF UTTAR PRADESH VS. SHAMBHU NATH SINGH reported in (*JT*

2001 (4) SC 3191). The petitioner shall co-operate for the completion of

the case within the time frame fixed by this Court.

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Index : Yes/No

Internet : Yes/No

TSG

To

1.The Principal District and Sessions Judge,
Ramanathapuram.

2.The Judicial Magistrate No.I,
Ramanthapuram.

3.The Forest Officer,
Ramanathapuram
Ramanathapuram District.

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



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N.ANAND VENKATESH. J.

TSG

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