



Crl.O.P.(MD)No.5738 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.5738 of 2024

R.Thennarasu

... Petitioner

Vs.

The State rep by
The Sub Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.
(Crime No.174 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records connected with the order dated 22.01.2024 in Crl.R.P.No.47 of 2023 on the file of the Principal District Judge, Ramanathapuram and set aside the same as illegal.

For Petitioner : Mr.N.Padma Boopathi

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition is directed against the order passed in Crl.R.P.No.47 of 2023 dated 22.01.2024 on the file of the Principal



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District Court, Ramanathapuram, dismissing the petition filed under Section 397(2) Cr.P.C.

2. The petitioner claims to be the owner of Ashok Leyland Dos bearing Registration No.TN-65-BY-3837. On 09.10.2023, the respondent police has registered a case in Crime No.174 of 2023 for the offences under Section 328 IPC and Sections 7 and 24(1) of Cigarette and other Tobacco Products Acts 2003 and seized the above said vehicle bearing Registration No.TN-65-BY-3837 for the alleged illegal transportation of prohibited cigarettes and other tobacco products.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Paramakudi for returning of the said vehicle in Crl.M.P.No.12505 of 2023 and the learned Judicial Magistrate, vide order dated 08.11.2023, has dismissed the petition. Aggrieved by the order of dismissal, the petitioner has filed a revision in Crl.R.P.No.47 of 2023 before the Principal District Judge, Ramanathapuram and the learned Principal District Judge, vide order dated 22.01.2024, has dismissed the revision. Challenging the same, the present petition came to be filed.



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

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is the sole accused, that the petitioner is having one previous case for similar offence and that the said vehicle was involved in one previous case for similar offence.

6. The learned counsel appearing for the petitioner would submit that the vehicle bearing Registration No.TN-65-BY-3837 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that the vehicle is with the police for more than one year, that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.

7. The learned counsel appearing for the petitioner would further



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submit that the original R.C. Book has been deposited before the learned District Munsif cum Judicial Magistrate, Kamuthi pertaining to the case in Crime No.28 of 2022 on the file of Abiramam Police Station and that he is not in a position to produce the original R.C. Book and he is ready to produce the photo copy of the R.C. book before the concerned Court.

8. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the petition and thereby setting aside the impugned order dated 22.01.2024 passed in Crl.R.P.No.47 of 2023, by the learned Principal District Judge, Ramanathapuram.

9. Accordingly, this Criminal Original Petition is allowed and the order dated 22.01.2024 passed in Crl.R.P.No.47 of 2023 by the learned Principal District Judge, Ramanathapuram, is hereby set aside and the vehicle/Ashok Leyland Dos bearing Registration No.TN-65-BY-3837, is ordered to be returned to the petitioner for interim custody subject to the



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confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

- (a) the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the Environmental Committee Operated by Registrar (Judicial) [Account No. 7633863037; MICR Code: 625019020, CIF No: 30602376727, IFSC Code: IDIB000H040, High Court Branch, Madurai (2001)];
- (b) the petitioner shall execute a bond for a sum of **Rs.2,00,000/- (Rupees Two Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Paramakudi;
- (c) the petitioner shall produce the photo copy of the R.C. book before the learned Judicial Magistrate, Paramakudi;
- (d) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (e) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

01.10.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

csm

Note : Issue order copy on 04.11.2024



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K.MURALI SHANKAR,J.

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To

- 1.The Principal District Judge,
Ramanathapuram.
- 2.The Judicial Magistrate,
Paramakudi.
- 3.The Sub Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.5738 of 2024

Dated: 01.10.2024