



Crl.R.C.(MD).No.443 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.443 of 2024

S.Subash

... Petitioner/Petitioner

Vs.

The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
Crime No.441/2023

... Respondent/Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to pass an order to call for the records in Crl.M.P.No.1905 of 2024 dated 01.04.2024 on the file of the Judicial Magistrate No.I, Kuzhithurai and set aside same and allow the Criminal Revision Petition.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.R.Sivakumar,
Government Advocate(Crl.Side)



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ORDER

The Criminal Revision Case has been filed to set aside the order in Crl.M.P.No.1905 of 2024 dated 01.04.2024 on the file of the Judicial Magistrate No.I, Kuzhithurai .

2.The petitioner claims to be the owner of the vehicle/Tipper bearing Reg.No.TN-75 AY-3510. On 28.11.2023, the respondent Police intercepted the vehicle/Tipper bearing Reg.No. TN-75 AY-9915 and seized the vehicle as the same was used for transporting of soil illegally without any valid licence or permit and registered a case in Crime No.441 of 2023 for the offences under Section 379 I.P.C.

3.It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.I, Kuzhithurai, for returning of the said vehicle in Cr.M.P.No.1905 of 2024 and the learned Judicial Magistrate No.I, Kuzhithurai, vide order dated 01.04.2024, has dismissed the petition on the ground that the petitioner has not produced any transmit pass. Challenging the same, the above Criminal Revision came to be filed before this Court.



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4.The learned counsel appearing for the petitioner would submit that the petitioner's vehicle was never involved in any illegal activity and the respondent police without verifying the same has foisted the above false case. He would further submit that the petitioner's family is depending upon the income deprived from the above said vehicle.

5.The learned Government Advocate (Criminal Side) appearing for the State would submit that the vehicle in question, is not having any previous case.

6.This Court considered the rival submissions and also perused the records and the impugned order.

7.In this case, the vehicle was seized on 28.11.2023. Till date, the confiscation proceeding is not initiated. The vehicle is keeping in the open place from 28.11.2023 onwards. Further, if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated. Considering the over all circumstances of the case, this Court is inclined to allow the revision by following the principle of law laid down by the Honourable Supreme Court, in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat* reported in 2002



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(10) SCC 283:

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“12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

- (1) preparing detailed proper panchnama of such articles;*
- (2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and*
- (3) after taking proper security”*

13. For articles such as seized liquor also, prompt action should be taken in disposing it of after preparing necessary panchnama. If sample is required to be taken, sample may kept properly after sending it to the chemical analyser, if required. But in no case, large quantity of liquor should be stored at the police station. No purpose is served by such storing.”

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 01.04.2024 in Cr.M.P.No.1905 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, is hereby set aside and the learned Judicial



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Magistrate No.I, Kuzhithurai, is directed to release the vehicle of the petitioner forthwith on the following conditions:-

(i) the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty 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,).

(ii) on such deposit the petitioner shall execute a bond to the value of the vehicle mentioned in the insurance certificate existed on the date of occurrence before the learned Judicial Magistrate No.I, Kuzhithurai ;

(iii) The petitioner shall file an affidavit with specific undertaking that they shall not involve in any illegal mining or any other offence and vehicle also will not be used in the illegal mining or any other offence.

(iv) The photograph of the vehicles is to be taken properly and the petitioner shall produce their vehicles as and when required by the Courts below.



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(v) The petitioner shall not alienate the vehicle till the disposal of confiscation proceeding

(vi) The investigating agency shall initiate the confiscation proceedings within a period of 10 days from the date of receipt of a copy of this order before the Courts below and the Courts below shall dispose the same within a period of six months thereafter.

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

25.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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Note: Issue Order Copy on 30.04.2024.



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To

1. The Learned Judicial Magistrate No.I,
Kuzhithurai.
2. The Inspector of Police,
Marthandam Police Station,
Kanyakumari 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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