



Crl.A.(MD).No.371 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Baskar

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Papanasam Sub Division,
Thanjavur District.

2.The Inspector of Police,
Ayampetti Police Station,
Thanjavur District.

... Respondents 1 & 2
/ Complainants

3.Dinagarajan

... 3rd Respondent /
De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 2015, to call for the records pertaining to the order dated 12.04.2024 in Cr.M.P.No.442 of 2024 on the file of the learned I Additional District and Sessions Judge (PCR), Thanjavur and to set aside the same by allowing this Criminal Appeal.



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For Appellant : Mr.R.Rajaraman
For R1 and R2 : Mr.R.Sivakumar
Government Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Cr.M.P.No.442 of 2024, vide order dated 12.04.2024, on the file of the learned I Additional District and Sessions Judge (PCR), Thanjavur, and enlarge the appellant on bail.

2. The appellant is the owner of TOYATO INNOVA Car bearing registration No.TN 49 AL 5000. According to the appellant, the appellant's vehicle is said to have been involved for the offence under Sections 294(b), 341, 342, 365, 323, 324, 506(ii) of IPC r/w 3(2) (va) of SC/ST (POA) Act.

3. Pending investigation, the appellant filed Crl.M.P.No.442 of 2024, on the file of the learned I Additional District and Sessions Judge (PCR), Thanjavur, under Section 451 and 457 of Criminal Procedure Code 1973, to return the vehicle for interim custody. Without considering the



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entire fact, the learned trial judge dismissed the petition. Challenging the same, the present appeal has been filed.

4. The learned counsel for the appellant submitted that the learned trial judge ought to have seen that if the vehicle is kept in the open place, the valuation of the vehicle would be deteriorated, due to the climatic condition and the vehicle is kept in open place from 25.02.2024. He further submitted that the custody of the vehicle is not required in the instant case and therefore, he prays for allowing this petition.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the said vehicle was used by the accused at the time of occurrence, it is a material piece of evidence for the prosecution case. He further submitted that the investigation is going on. Hence, he prays for dismissing the appeal.

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



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7. In this case, the vehicle was seized on 25.02.2024. Till date, the confiscation proceeding is not initiated. The vehicle is keeping in the open place from 25.02.2024 onwards. Further, if the vehicle is kept in one 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 this appeal 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 (10) SCC 283**:

“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,



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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 Appeal is allowed and the order dated 12.04.2024, in CrlM.P.No.442 of 2024 on the file of the learned I Additional District and Sessions Judge (PCR), Thanjavur, is hereby set aside and the learned learned I Additional District and Sessions Judge (PCR), Thanjavur, is directed to release the vehicle of the appellant forthwith on the following conditions:

(i) the appellant is directed to deposit a sum of Rs.5,000/- (Rupees Five 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,).



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(ii) on such deposit the appellant shall execute a bond to the value of the vehicle mentioned in the insurance certificate existed on the date of occurrence before the learned I Additional District and Sessions Judge (PCR), Thanjavur,;

(iii) The appellant shall file an affidavit with specific undertaking that he 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 his vehicles as and when required by the Courts below.

(v) The appellant 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



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the Courts below and the Courts below shall dispose
the same within a period of six months thereafter.

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

29.04.2024

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

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Note: Issue order copy on 08.05.2024



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To
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1. The learned I Additional District and Sessions Judge (PCR), Thanjavur,
2. The Deputy Superintendent of Police,
Papanasam Sub Division,
Thanjavur District.
3. The Inspector of Police,
Ayampetti Police Station,
Thanjavur District.
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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