



Crl.R.C.(MD)No.649 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 04.07.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Nagaraj @ Nagarajan

... Petitioner

Vs.

The State represented by
The Sub Inspector of Police,
Vadamadurai Police Station,
Dindigul District.

... 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 the order in Crl.M.P.No.17 of 2024 dated 01.04.2024 on the file of the Additional District Munsif and Judicial Magistrate Court, Vadasendur in Crime No.441 of 2022 on the file of the respondent police and set aside the same as illegal and consequently, direct the learned Additional District Munsif and Judicial Magistrate Court, Vadasendur to release the petitioner's vehicle "Tractor, bearing Registration No.TN 58 Z 4815" which was seized by the respondent on 31.10.2022.

For Petitioner	: Mr.M.Vivek Bharathi
For Respondent	: Mr.B.Thanga Aravindh
	Government Advocate (Crl.Side)

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ORDER

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The Criminal Revision Case has been filed to call for the records pertaining to the order in Crl.M.P.No.17 of 2024 dated 01.04.2024 on the file of the Additional District Munsif and Judicial Magistrate Court, Vadasendur and set aside the same as illegal and consequently, direct the learned Additional District Munsif and Judicial Magistrate Court, Vadasendur to release the petitioner's vehicle "Tractor, bearing Registration No.TN 58 Z 4815" which was seized by the respondent on 31.10.2022.

2. The petitioner claims to be the owner of the vehicle/Tractor bearing Reg.No.TN-58-Z-4815. On 31.10.2022, the respondent Police intercepted the vehicle/Tractor bearing Reg.No.TN-58-Z-4815 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 2022 for the offences under Sections 379 I.P.C and 21(1) of Mines and Minerals (Development and Regulations) Act, 1957.

3. It is not in dispute that the petitioner has approached the Additional District and Judicial Magistrate Court, Vadasendur, for returning of the said



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vehicle in Crl.M.P.No.4177 of 2023 and the learned Judicial Magistrate, vide order dated 21.08.2023, has dismissed the petition stating that the petition has to be filed before the learned Special Court for cases under Mines and Minerals Act, 1957. Thereafter, the petitioner has filed a petition in Crl.M.P.No.17 of 2024 before the Additional District Munsif and Judicial Magistrate Court, Vadasendur and the same was also dismissed on 01.04.2024 by observing that the above said case was registered under the provisions of Mines and Minerals (Development and Regulations) Act, 1957 and the Court below observed that the same has to be dealt with the Special Court for Mines and Minerals Act Cases (Sessions Court Level). Challenging the same, the above Criminal Revision came to be filed before this Court.

4. The learned Counsel for the petitioner submits that the offences itself is not maintainable against the owner/petitioner and seeks interim custody of the vehicle kept in the custody and he also relied the judgment as follows:-

i)G.Arun Prasanna Vs. Elango and others in Crl.R.C.Nos. 295 & 296 of 2014;and

ii)Ginjala Naga Appala Raju Vs. State rep. by its the Inspector of Police in Crl.R.C.No.73 of 2022;



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5. Heard the learned Government Advocate (Crl.Side) appearing for the respondent police.

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 31.10.2022 and also the vehicle is kept in the custody of the Court without making any proper maintenance from 17.01.2024 onwards and till date, the confiscation proceedings has not been initiated. 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 (10) SCC 283:

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 01.04.2024 in Crl.M.P.No.17 of 2024 on the file of the Additional District Munsif and Judicial Magistrate Court, Vadasendur, is hereby set aside and the learned Additional District Munsif and Judicial Magistrate Court, Vadasendur, is directed to release the vehicle of the petitioner forthwith on the following conditions:-



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(i) the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) as non-refundable for the vehicle to the credit of the **Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, bearing Account No.: 30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832, for the welfare of the children on or before 29.07.2024, otherwise impugned order shall stand restored.**

(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 Additional District Munsif and Judicial Magistrate Court, Vadasendur;

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

(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;

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



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(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; and

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

9. Post the matter on 30.07.2024 for reporting compliance.

04.07.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1. Additional District Munsif and Judicial Magistrate Court,
Vadasendur.
2. The Sub Inspector of Police,
Vadamadurai Police Station,
Dindigul 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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