



Crl.R.C.(MD).No.471 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 30.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.471 of 2024

Anbalagan

... Petitioner/Petitioner

Vs.

The Inspector of Police,
Astinpatti Police Station,
Astinpatti,
Madurai District.
Crime No.238/2022

... 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.5836 of 2023 dated 02.04.2024 on the file of the Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, and set aside the same and further direct the respondent to release the petitioner's Tipper Lorry vehicle bearing Registration No.TN 32 J 7688 and allow this revision petition.



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For Petitioner : Mr.B.Chakkaravarthi

For Respondent : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)

ORDER

The Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.5836 of 2023, dated 02.04.2024 by the learned Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, and further direct the respondent to release the petitioner's Tipper Lorry vehicle bearing Registration No.TN 32 J 7688.

2.The petitioner claims to be the owner of the vehicle/Tipper lorry bearing Reg.No.TN-32 J 7688. On 11.11.2022, the respondent Police intercepted the vehicle/Tipper lorry bearing Reg.No. TN-32 J-7688 and seized the vehicle as the same was used for transporting of sand illegally without any valid licence or permit and registered a case in Crime No.238 of 2022 for the offence under Section 379 of IPC and 21(4) of MMDR Act. The respondent Police produced the petitioner's vehicle before the learned Judicial Magistrate, Thirumangalam and the same was taken on file in P.R.P.No.91 of 2023 and the petitioner's vehicle was kept in the respondent Police Station till date.



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3.It is not in dispute that the petitioner has approached the learned Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, for returning of the said vehicle in Cr.M.P.No.5836 of 2023 and the learned Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, vide order dated 02.04.2024, has dismissed the petition on the ground that if the vehicle is returned in interim custody, there may be chances of it being used in similar offences. Challenging the same, the above Criminal Revision came to be filed before this Court.

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.



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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 11.11.2022. Till date, the confiscation proceeding is not initiated. The vehicle is keeping in the open place from 11.11.2022 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 (10) SCC 283**.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 02.04.2024 in Cr.M.P.No.5836 of 2023 on the file of the the learned Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, is hereby set aside and the the learned Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai, 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.15,000/- (Rupees Fifteen Thousand only) as non-refundable for the vehicle to the **credit of the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Account No.:30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832 on or before 29.07.2024, otherwise the 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 the learned Special District Judge to deal with the cases of offences in Contravention of the provisions of the Mines and Minerals (D &R) Act, Madurai;

(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



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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

(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.

9. Post the matter on **30.07.2024, for reporting compliance.**

30.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbn

Note: Issue Order Copy on 12.07.2024.



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To

1. The learned Special District Judge,
to deal with the cases of offences in Contravention of
the provisions of the Mines and Minerals (D &R) Act,
Madurai.
2. The Inspector of Police,
Astinpatti Police Station,
Astinpatti,
Madurai 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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