



Crl.R.C.(MD)No.499 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.05.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

Crl.R.C.(MD)No.499 of 2024

Jeba John

... Petitioner

Vs

The State represented by
The Inspector of Police,
Pazhugal Police Station,
(Crime No.18 of 2024)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C., to call for the records relating to the order dated 03.04.2024 in CrI.M.P.No.3999 of 2024 in Crime No.18 of 2024 on the file of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and set aside the same and consequently direct the respondent herein to return the vehicle Leyland Dost Tipper vehicle bearing Registration No.TN-75-X-8064 to the petitioner for his interim custody.

For Petitioner : Mr.S.Jebastin

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

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This Revision is filed challenging the impugned order passed in Crl.M.P.No.3999 of 2024, dated 03.04.2024 by the Judicial Magistrate No.I, Kuzhithurai.

2. The respondent police registered a case in Crime No.18 of 2024 for the alleged offence under Section 379 IPC against the petitioner/second accused and one Dhamodharan for transporting sand illegally and that they have seized a vehicle viz., Ashok Leyland Dost Tipper bearing Registration No.TN-75-X-8064 and the same was remanded.

3. The petitioner, being the the owner of the seized vehicle, filed a petition under Sections 451 and 457 Cr.P.C. in Crl.M.P.No.3999 of 2024 before the Judicial Magistrate No.I, Kuzhithurai, who, by the order impugned herein, dismissed the petition.

4. The learned counsel appearing for the petitioner submitted that the vehicle bearing Registration No.TN-75-X-8064 is owned by the petitioner and that the vehicle has been stationed in an open yard and has been kept



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idle and uncared under all weather conditions and natural calamities, due to which, the value of the vehicle will be drastically depreciated. Further, the petitioner is ready to abide by any condition that may be imposed on him for the release of vehicle and give an undertaking that he will not involve the vehicle in similar type of offences again. Hence he prayed for granting interim custody of the vehicle.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the respondent police has registered a case against the petitioner/A2 along other accused in Crime No.18 of 2024. The respondent police seized the vehicle and also recovered sand. Now the vehicle has been produced before the Judicial Magistrate. He further submitted that if the vehicle is returned to the petitioner, he may re-use the same for committing further criminal activities. Thus, he prayed for dismissal of this petition.

6. I have considered the arguments advanced on both sides and perused the materials available on record.



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7. The petitioner claims that he is the owner of the Ashok Leyland Dost Tipper bearing Registration No.TN-75-X-8064 and admittedly, the vehicle has been seized by the respondent police and the same has been produced before the Judicial Magistrate. In such circumstances, keeping the four wheeler in idle will damage the vehicle.

8. Now the petitioner seeks return of vehicle since the vehicle was stationed in an open yard and subject to natural calamities and unconditional weather conditions.

9. In ***Sunderbhai Ambalal Desai vs State Of Gujarat*** reported in ***AIR 2003 SC 638***, the Hon'ble Supreme Court in paragraph No.17 has held as follows:

"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."



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10. Considering the nature of the offence involved and also considering the dictum of the Supreme Court cited supra, I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

11. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No.TN-75-X-8064 to temporary custody of the petitioner, on complying the following conditions:

- i. *The petitioner shall deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the Tahsildar, to the credit of the District Mines and Minerals Foundation Trust, Kanyakumari as non-refundable deposit;*
- ii. *The petitioner shall execute a personal bond for a sum of **Rs.10,000/- [Rupees Ten Thousand only]** with two sureties each, for a like sum to the satisfaction of the*



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learned Judicial Magistrate No.I, Kuzhithurai.

- iii. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;*
- iv. The petitioner shall give an undertaking before the respondent/authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent and also the trial Court, failing which the respondent/trial Court is at liberty to confiscate the vehicle;*
- v. The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;*
- vi. The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;*
- vii. The petitioner is also directed to participate in the enquiry to be conducted by the respondent*



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12. Accordingly, the Criminal Revision Petition stands allowed.

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

- 1.The Judicial Magistrate No.I,
Kuzhithurai.
- 2.The Inspector of Police,
Pazhugal Police Station,
Kanyakumari.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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ORDER IN
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