



CrI.R.C.(MD)No.498 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.05.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

CrI.R.C.(MD)No.498 of 2024

Thiyagu

... Petitioner

Vs

State by
Inspector of Police,
Vathalai Police Station,
Tiruchirapalli District.
(Crime No.33 of 2024)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for records and set aside the order passed by the learned Judicial Magistrate at Musiri in Cr.M.P.No.1504 of 2024 dated 09.05.2024 and consequently directing the respondent police to release the vehicle bearing Registration No.TN-48-BA-3709.

For Petitioner : Mr.S.K.Mani

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.1504 of 2024, dated 09.05.2024 by the Judicial Magistrate, Musiri.

2. The respondent police registered a case in Crime No.33 of 2024 for the alleged offences under Section 379 IPC and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 against the petitioner and one Sathishkumar and that they have seized a vehicle viz., TATA 407 bearing Registration No.TN-48-BA-3709 along with 1½ unit of sand and the same was remanded.

3. The petitioner, being the the owner of the seized vehicle, filed a petition under Section 457 Cr.P.C. in Crl.M.P.No.1504 of 2024 before the Judicial Magistrate, Musiri, who, by the order impugned herein, dismissed the petition.

4. The learned counsel appearing for the petitioner would submit that the vehicle bearing Registration No.TN-48-BA-3709 is owned by the petitioner and that the vehicle has been stationed in an open yard and has



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been kept 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/A1 along other accused in Crime No.33 of 2024. The respondent police seized the vehicle from the petitioner and also recovered 1½ unit of sand. Now the vehicle has been produced before the Judicial Magistrate and the vehicle has been handed over to the police for safe custody. 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 TATA 407 bearing Registration No.TN-48-BA-3709 and admittedly, the vehicle has been seized by the respondent police and the same has been produced before the Judicial Magistrate, Musiri and it is now under the custody of police. 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



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done pending hearing of applications for return of such vehicles."

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-48-BA-3709 to temporary custody of the petitioner, on complying the following conditions:

- i. The petitioner shall deposit a sum of **Rs.25,000/- (Rupees Twenty Five 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, Tiruchirappalli as nonrefundable deposit;*



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- 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 learned Judicial Magistrate, Musiri.*
- 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;*



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vii. The petitioner is also directed to participate in the enquiry to be conducted by the respondent

12. Accordingly, the Criminal Revision Petition stands allowed.

22.05.2024

NCC : Yes/No
Internet: Yes/No
Index: Yes/No
csm

To

1. The Judicial Magistrate,
Musiri.
2. The Inspector of Police,
Vathalai Police Station,
Tiruchirapalli District.
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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