



Crl.R.C.(MD)No.500 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.500 of 2024

V.S.Sathish Kumar

... Petitioner

Vs

The State represented by
Sub Inspector of Police,
Arumanai Police Station,
(Crime No.46 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 04.04.2024 in CrI.M.P.No.3996 of 2024 in Crime No.46 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 bearing Registration Nos.TN-64-Z-5130 and TN-72-BF-7994 (Tipper Tempo) to the petitioner for his interim custody.

For Petitioner : Mr.S.Jebastin

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



Crl.R.C.(MD)No.500 of 2024

ORDER

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This Revision is filed challenging the impugned order passed in Crl.M.P.No.3996 of 2024, dated 04.04.2024 by the Judicial Magistrate No.I, Kuzhithurai.

2. On 27.02.2024 at about 10.00 a.m., based on secret information, the Village Administrative Officer, Anducode village along with police officials visited the occurrence place and found that one Victor/first accused along with the petitioner and other accused broke stone without permission and loaded the same to one vehicle and prepared to load the remaining stones in another vehicle and on seeing the police, the accused persons fled from the place of occurrence. Hence, the respondent police registered a case in Crime No.46 of 2024 for the offence under Section 379 IPC and seized two vehicles bearing Registration Nos.TN-94-Z-5130 and TN-72-BF-7994 from the occurrence place and the same were remanded.

3. The petitioner, being the the owner of the seized vehicles, filed a petition under Section 451 Cr.P.C. in Crl.M.P.No.3996 of 2024 before the Judicial Magistrate No.I, Kuzhithurai, who, by the order impugned herein,



CrI.R.C.(MD)No.500 of 2024

dismissed the petition on the ground that the petitioner has not produced any transmit pass in respect of the alleged offence.

4. The learned counsel appearing for the petitioner submitted that after removing the stone from the own patta land of the said Victor for domestic purpose, the said Victor engaged the petitioner to shift the rough stone from one place to another to make smooth compound wall work and agricultural activity in the said land, but without considering the same, the respondent police has falsely implicated the petitioner and seized his vehicles.

5. The learned counsel appearing for the petitioner further submitted that the vehicles have been stationed in an open yard and have been kept idle and uncared under all weather conditions and natural calamities, due to which, the value of the vehicles will be drastically depreciated. Further, the petitioner is ready to abide by any condition that may be imposed on him for the release of vehicles and give an undertaking that he will not involve the vehicles in similar type of offences again. Hence he prayed for granting interim custody of the vehicles.



Crl.R.C.(MD)No.500 of 2024

6. The learned Additional Public Prosecutor appearing for the respondent submitted that the respondent police has registered a case against the petitioner/A2 and other accused in Crime No.46 of 2024. Now the vehicles has been handed over to the police for safe custody. He further submitted that if the vehicles are returned to the petitioner, he may re-use the same for committing further criminal activities. Thus, he prayed for dismissal of this petition.

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

8. The petitioner claims that he is the owner of the vehicles bearing Registration Nos.TN-94-Z-5130 and TN-75-BF-7994 and admittedly, the vehicles have been seized by the respondent police and the same have been produced before the Judicial Magistrate and it is now under the custody of police. In such circumstances, keeping the vehicles in idle will damage the vehicles.

9. Now the petitioner seeks return of vehicle since the vehicles were stationed in an open yard and subject to natural calamities and



Crl.R.C.(MD)No.500 of 2024

unconditional weather conditions.

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10. 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."

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

12. Accordingly, the impugned order passed by the Court below dated 04.04.2024 is set aside and the respondent police is directed to return the



Crl.R.C.(MD)No.500 of 2024

vehicles bearing Registration Nos.TN-94-Z-5130 and TN-75-BF-7994 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 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 vehicles in question for any illegal activities in future and shall produce the same as and when required*



Crl.R.C.(MD)No.500 of 2024

by the respondent and also the trial Court, failing which the respondent/trial Court is at liberty to confiscate the vehicles;

- v. The petitioner shall not alienate the vehicles in question till the disposal of the proceedings before the authority concerned;*
- vi. The petitioner shall take photograph of the vehicles 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.*

13. Accordingly, the Criminal Revision Petition stands allowed.

22.05.2024

NCC : Yes/No
Internet: Yes/No
Index: Yes/No
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CrI.R.C.(MD)No.500 of 2024

S.SRIMATHY, J.

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To

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

ORDER IN
CrI.R.C.(MD)No.500 of 2024

22.05.2024