



Crl.R.C.(MD)No.512 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.05.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.512 of 2024

Dheenadhayalan, S/o.Chinnathambi

... Petitioner / Petitioner

Vs.

The Inspector of Police,
Musiri Police Station,
Trichy District.
(Crime No.5 of 2024)

... Respondent / Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w. Section 401 of the Criminal Procedure Code, to call for the records relating to the order dated 21.05.2024, in CIS.Crl.M.P.No.1535 of 2024, on the file of the Judicial Magistrate Court, Musiri, set aside the same and consequently, direct the learned Judicial Magistrate, Musiri, to return the petitioner's JCB bearing Registration No.TN-52-A-4684 in connection with the case in Crime No.5 of 2024, on the file of the respondent Police.

For Petitioner : Mr.K.Arunraj

For Respondent : Mr.R.Sivakumar

Government Advocate (Criminal side)



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ORDER

This Criminal Revision is filed challenging the impugned order passed in CIS.Crl.M.P.No.1535 of 2024, dated 21.05.2024, by the learned Judicial Magistrate, Musiri.

2. The respondent Police registered a case in Crime No.5 of 2024 for the alleged offences under Section 379 I.P.C. and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957 against the petitioner/A2 and one Suresh/A1 for loading two units of lake sand in a Mini Tipper lorry belonging to the first accused, bearing Registration No.TN-48-AZ-0477 with the help of a JCB belonging to the petitioner, bearing Registration No.TN-52-A-4684 without any valid permit and that they have seized the vehicles and the same were made as case properties in the above said crime number.

3. The petitioner, being the the owner of the seized JCB vehicle, filed a petition under Section 457 Cr.P.C. in CIS.Crl.M.P.No.1535 of 2024 before the learned Judicial Magistrate, Musiri, who, by the order impugned herein, dismissed the petition.



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4. The learned counsel appearing for the petitioner submitted that the JCB bearing Registration No.TN-52-A-4684 is owned by the petitioner and that the vehicle has been stationed in an open yard and has 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 offence again. Hence, he prayed for granting interim custody of the vehicle.

5. The learned Government Advocate (Criminal side) appearing for the respondent submitted that the respondent Police has registered a case against the petitioner/A2 and Suresh/A1 in Crime No.5 of 2024. The respondent Police seized the vehicles and also recovered sand. Now, the vehicles are under the custody of the respondent Police. 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 by the learned counsel on either side and also perused the materials available on record.

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7. The petitioner claims that he is the owner of the JCB bearing Registration No.TN-52-A-4684 and admittedly, the vehicle has been seized by the respondent Police and the same is under the custody of the respondent Police. In such circumstances, keeping the vehicle 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."

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



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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-52-A-4684 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) to the credit of the District Mines and Minerals Foundation Trust, Trichy, 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, 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 Police and also the trial Court, failing which the respondent Police /



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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.

12. Accordingly, the Criminal Revision Petition stands allowed.

Sd/-

Vacation officer

(*)Amended as per order of this Court dated 18.06.2024 made in Crl.R.C.(MD)No. 512 of 2024

Sd/-

Assistant Registrar(A.E)

// True Copy //

19/06/2024

Sub Assistant Registrar

smn2

To

(*) To be substituted to the order already despatched on 13/06/2024

1.The Judicial Magistrate,

Musiri.

<https://www.mhc.tn.gov.in/judis>



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2.The Inspector of Police,
Musiri Police Station,
Trichy District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:

1 The officer incharge,
District Mines and Minerals Foundation Trust,
Trichy,

2 THE SECTION OFFICER,
CRIMINAL RECORDS,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI. (2 Copies)

+1 CC to M/s.K.ARUNRAJ, Advocate (SR-24654[F] dated 29/05/2024)

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29.05.2024

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MK/11.06.2024 7P 8C

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RD(19/06/2024) 7P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.