



Crl.R.C.(MD)No.545 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02.07.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Kaviyarasan ... Petitioner/Petitioner/Owner of the property

Vs.

1.The State rep. By its
The Inspector of Police,
Keeraithurai Police Station,
Madurai City.
(Crime No.100 of 2024) ... 1st Respondent/Respondent/Complainant

2.Sunitha ... 2nd Respondent/Intervener/Defacto Complainant

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 relating to the order of the learned Judicial Magistrate No.IV, Madurai in Crl.M.P.No.983 of 2024 dated 22.03.2024 and set aside the order as illegal and allow the above Criminal Revision Petition and release vehicle.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondent : Mr.S.Ravi
Additional Public Prosecutor for R1

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ORDER

The Criminal Revision Case has been filed to set aside the order in Crl.M.P.No.983 of 2024 dated 22.03.2024 passed by the learned Judicial Magistrate No.IV, Madurai and set aside the order as illegal and allow the above Criminal Revision Petition and release vehicle.

2.The accused in Crime No.100 of 2024 on the file of the first respondent police filed this application under Sections 451 and 457 of Cr.P.C., seeking interim custody of the vehicle involved in the offences under Sections 429 and 511 of IPC r/w Section 11 of Tamil Nadu Animal Preservation Act, 1958. Thereafter, during the pendency of the investigation, he filed an application seeking the interim custody of the vehicle and the same was dismissed by the learned trial Judge by passing an impugned order. Challenging the same, he filed the present revision.

3.The petitioner claims to be the owner cum driver of the vehicle/auto bearing Reg.No.KA-59-0897. On 04.03.2024 at about 2.00 p.m., while on travel at Chinthamani Toll gate, found a lorry bearing Registration No.KA-59-0897



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with cattle and the same was informed the police, whether the cattle are in order, during the check up the police had found that cattle were loaded in violation of the Transport of Animal Rules, 1978 and the cattles were taken from Andhra Pradesh to Kerala, without following the norms. During the enquiry, they came to know that totally 44 bulls by the driver and thereafter, it was handed over to nearby Kosala and the first respondent police registered a case in Crime No.100 of 2024 for the offences under Sections 451 and 457 of IPC.

4.It is not in dispute that the petitioner has approached the learned learned Judicial Magistrate No.VI, Madurai, for returning of the said vehicle in Crl.M.P.No.1483 of 2024 and the learned Judicial Magistrate No.VI, Madurai, vide order dated 28.05.2024, has dismissed the petition on the ground that the petitioner mentioned auto is not seized by the concerned Investigation Officer. Challenging the same, the above Criminal Revision came to be filed before this Court.

5.The learned Counsel for the petitioner submits that the offences itself is not maintainable against the owner/petitioner and seeks interim custody of the vehicle kept in the custody and he also relied the judgment as follows:-



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i)G.Arun Prasanna Vs. Elango and others in Crl.R.C.Nos. 295 & 296 of 2014;and

ii)Ginjala Naga Appala Raju Vs. State rep. by its the Inspector of Police in Crl.R.C.No.73 of 2022;

The learned Counsel for the petitioner seeks correction in the prayer, this Court permits the same.

6.The learned Counsel for the defacto complainant produced the application stating that the petitioner is not involved to seize the vehicle, he is illegally transported the cattles.

7.The learned Additional Public Prosecutor on instruction reiterated the above submission and further submits that he is already involved in the similar type of offence and pleaded guilty and hence he seeks for dismissal of the revision.



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8.This Court considered the rival submissions and also perused the records and the impugned order.

9.In this case, the vehicle was seized on 05.03.2024 and also the vehicle is kept in the custody of the Court without making any proper maintenance from 08.04.2024 onwards. 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***:

10. Accordingly, this Criminal Revision Petition is allowed and the order dated 22.03.2024 in Cr.M.P.No.983 of 2024 on the file of the learned Judicial Magistrate No.IV, Madurai, is hereby partly set aside relating to release of vehicle and confirming the dismissal of seeking interim custody of Animals. and the learned Judicial Magistrate No.IV, 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.70,000/- (Rupees Seventy Thousand only) as non-refundable for the vehicle to the credit of the **Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, bearing Account No.: 30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832, for the welfare of the children.**

(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 learned Judicial Magistrate No.IV, Madurai;

(iii) the petitioner shall file an affidavit with specific undertaking that they shall not involve in any similar or any other offence and vehicle also will not be used in any illegal purpose;

(iv) the photograph of the vehicles is to be taken 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;



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(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; and

(vii) the petitioner shall co-operate with the trial Court to complete the confiscation proceedings.

02.07.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

Note: Issue Order Copy on 03.07.2024

To

1. The learned Judicial Magistrate No.IV, Madurai.
2. The Inspector of Police,
Keeraithurai Police Station,
Madurai City.
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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