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Crl.R.C.(MD)No.702 of 2024

THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.702 of 2024

Justin

...Petitioner

Vs.

The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
(Crime No.148 of 2023)

... Respondent

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 pertaining to CrI.M.P.No.3051 of 2024 dated 01.04.2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and set aside the same by allowing this Revision Petition.

For Petitioner : Mr.G.Aravinthan

For Respondent : Mr.B.Thanga Aravindh
Government Advocate(Crl. Side)

* * * * *

ORDER

The Criminal Revision Case has been filed to set aside the order dated 01.04.2024 in Cr.M.P.No.3051 of 2024 in Crime No.148 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, set aside the same and



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consequently direct the learned Judicial Magistrate No.I, Kuzhithurai to return the Hyundai Hydraulic Excavator R85A, bearing Reg.No.TN-72-X-0958 to the petitioner.

2.The petitioner claims to be the owner of the Hyundai Hydraulic Excavator R85A bearing Reg.No.TN-72-X-0958. On 13.09.2023, information received by the Village Administrative Officer and her assistant, the respondent police visited Re.Sy.No.738/31 of Chitharal Village having an extent of 40.635 cents of land which belongs to one Esther. They found that the rock was broken by using compressor vehicle bearing Reg.No.TN-76-X-0958 without permission. The informant has seized the vehicle and handed over to the respondent police and the respondent police have registered a case in Crime No.148 of 2023 for the offences under Section 379 I.P.C and Section 21(1) of Mines and Minerals Act.

3.It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.I, Kuzhithurai, for returning of the said vehicle in Crl.M.P.No. 3051 of 2024 and the learned Judicial Magistrate No.I, Kuzhithurai, vide order dated 01.04.2024, has dismissed the petition on the ground that the petitioner has not produced any transmit pass. Challenging the same, the above Criminal



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Revision came to be filed before this Court.

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4.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he is in no way connected with the offences alleged against the petitioner and the vehicle was never involved in any illegal activity and the respondent police without verifying the same has foisted the above false case. He would further submit that the petitioner's family is depending upon the income derived from the above said vehicle.

5.The learned Government Advocate (Criminal Side) appearing for the respondent police submits that the petitioner is having three previous cases.

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

7.In this case, the vehicle was seized on 13.09.2023. Till date, the confiscation proceeding is not initiated. The vehicle is kept in the open place from 13.09.2023 onwards. Further, if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated. Considering the



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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**.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 01.04.2024 in Crl.M.P.No.3051 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, is hereby set aside and the learned Judicial Magistrate No.I, Kuzhithurai, is directed to release the vehicle of the petitioner forthwith on the following conditions:-

(i) the petitioner is directed to deposit a sum of **Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only)** as non-refundable for the vehicle to the credit of the **Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Virudhunagar District, Account No.: 30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832 on or before 30.07.2024, otherwise the impugned order shall stand restored;**

(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.I, Kuzhithurai;



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

(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;

(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.

9. Post the matter on **31.07.2024** for compliance.

23.07.2024

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

Note: Issue Order Copy on 23.07.2024



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To

- 1.The learned Judicial Magistrate No.I, Kuzhithurai
- 2.The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
- 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.

RJR

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