



CRL MP(MD) No.7569 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twentieth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL MP(MD) No.7569 of 2024

IN

CRL OP(MD) No.14178 of 2023

S.SUBRAMANIAM

... PETITIONER/PETITIONER

Vs

THE FOREST RANGER OFFICER
BOOTHAPANDI RANGE,
ARALVOIMOZHI,
KANYAKUMARI DISTRICT.
(W.L.O.R.NO.5 OF 2023)

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to modify the condition imposed on the petitioner by order dated 14.09.2023 in CRL.OP(MD) No. 14178 of 2023 on the file of this Honble Court to the effect that the petitioner may be permitted to get back the R.C.Book for the vehicle and to sell the vehicle bearing Registration No.TN-74-AT-0572, Mahindra TUV 300.

Prayer in CRL OP(MD). 14178/ 2023 :

To Set aside the order passed by the Learned Principal Session Judge, Kanyakumari District at Nagercoil in Revision Petition No.9 of 2023 dated 03.07.2023 confirming the order passed by the Special Judge for Forest Offence Cases, Nagercoil in Crl.MP.No.93 of 2023 dated 05.05.2023.



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Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M.SURI, Advocate for the petitioner and of Mr.M.AASHA, Government Advocate(Crl.side on behalf of the Respondent, the Court made the following order:-

This petition has been filed to modify the condition imposed by this Court, by an order dated 14.09.2023 in Crl.O.P.(MD)No.14178 of 2023, while ordering interim custody of the vehicle bearing Registration No.TN-74-AT-0572.

2. The learned counsel for the petitioner would submit that the vehicle is becoming more and more old and in view of the gearbox problem, the petitioner is unable to use the same and therefore, he is intending to sell the same. By relying upon the judgment of the Hon'ble Supreme Court, in *Sunderbhai Ambalal Desai V. State of Gujarat* reported in 2003 SCC (Cri.) 1943 and the judgment of this Court in *Shanti V. State by the Inspector of Police* reported in 2023 -2- MWN (Cr.) 136, he would submit that it is not necessary to impose such a condition. It is enough if photographs of the vehicle on all sides are being taken and such Inspection reports etc, if necessary, can be drawn up and the same can be used as evidence and the vehicle itself need not be actually produced before the Court. When there is no such necessity, the imposition of the condition, not to sell, is erroneous and therefore, the same can be modified.



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3. Per Contra, the learned Government Advocate (Criminal Side) would submit that this vehicle was used in committing the offence under the Wildlife Protection Act. If any vehicle, which is used for Commission of an offense, it would become the property of the State and the appropriate orders can be passed only at the time of passing final orders in the criminal case. Now, the case is pending investigation.

4. I have heard the learned counsel on either side and perused the material records of the case.

5. It can be seen that the vehicle of the petitioner is said to have been involved in W.L.O.R.No.5 of 2023, whereunder, one animal-Indian Crested Porcupine-Hystrix Indica was said to have been hunted in a private farm land, by using the vehicle. In view thereof, the vehicle is not just required, for the sake of production before the trial Court. Further questions whether the vehicle was used for the purpose of hunting and if so, whether it has become the property of the Government are all to be decided by the trial Court. Now, the investigation is still pending, therefore, at this stage, the modification sought for by the petitioner cannot be



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granted. Since the case is of the year 2023, the respondent is directed to expedite the investigation and file charge sheet, in any event, not later than three months from the date of receipt of copy of this order.

6. With the above observations, this Petition is dismissed.

sd/-
20/08/2024

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/08/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE PRINCIPAL SESSIONS JUDGE
KANYAKUMARI DISTRICT AT NAGERCOIL
- 2 THE SPECIAL JUDGE FOR FOREST
OFFENCE CASES, NAGERCOIL
- 3 THE FOREST RANGER OFFICER
BOOTHAPANDI RANGE,
ARALVOIMOZHI,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER
IN
CRL MP(MD) No.7569 of 2024
IN
CRL OP(MD) No.14178 of 2023
Date :20/08/2024

SS/VR/SAR- /24/08/2024/5P/5C

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