



Crl.R.C.(MD)No.725 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.08.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.725 of 2024

Saravanan

... Petitioner/Accused

Vs.

1.The State rep. by
The Sub Inspector of Police,
Keelakarai Police Station,
Ramanathapuram District.
(Crime No.26 of 2024)

... Respondent/Respondent

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Ramanathapuram.

3.The Assistant Director,
Protection Officer of Mines and Minerals,
Ramanathapuram.

4.The Thasildar,
Thasildar Office,
Ramanathapuram.

...Respondents/Respondents

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order dated 02.07.2024 made in Cr.M.P.No.1703 of 2024 (CIS CrI.M.P.No.1137 of 2024) on the file of the learned Judicial Magistrate Court No.I, Ramanathapuram and set aside the order



Crl.R.C.(MD)No.725 of 2024

and direct the respondent herein to grant the interim custody of the vehicle viz., Tipper Lorry Four Wheeler bearing Registration No.TN-65-AQ-7006, which has been seized by the respondent herein in Crime No.26 of 2024.

For Petitioner : Mr.M.Rajeswari

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

ORDER

The Criminal Revision Case has been filed to set aside the order in Crl.M.P.No.1703 of 2024 dated 02.07.2024 passed by the learned Judicial Magistrate No.I, Ramanathapuram and set aside the same, and consequently directing the learned Judicial Magistrate No.I, Ramanathapuram to return the vehicle namely Lorry bearing Registration No.TN-65-AQ-7006 to the petitioner.

2. The petitioner claims to be the owner cum driver of the vehicle/auto bearing Reg.No.TN-65-AQ-7006. On 19.02.2024, at about 11.00 p.m. he respondent Police intercepted the Lorry bearing Reg.No.TN-65-AQ-7006 and seized the vehicle as the same was used for transporting of soil illegally without any valid licence or permit and registered a case in Crime No.26 of 2024 for the offences under Section 21(1) of the Mines and Minerals Development and Regulation Act, 1957.



Crl.R.C.(MD)No.725 of 2024

WEB COPY

3. It is not in dispute that the petitioner has approached the learned learned Judicial Magistrate No.I, Ramanathapuram, for returning of the said vehicle in Crl.M.P.No.1137 of 2024 and the learned Judicial Magistrate No.I, Ramanathapuram, vide order dated 02.07.2024, has dismissed the petition has dismissed the petition on the ground that the petitioner has not produced any transmit pass. Challenging the same, the above Criminal Revision came to be filed before this Court.

4. The learned counsel appearing for the petitioner would submit that the petitioner's vehicle was never involved in any illegal activity. He would further submit that the petitioner's family is depending upon the income deprived from the above said vehicle.

5.The learned Government Advocate (Criminal Side) appearing for the respondent police submits that the petitioner is not having previous cases.

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



Crl.R.C.(MD)No.725 of 2024

WEB COPY

7. In this case, the vehicle was seized on 19.02.2024. Till date, the confiscation proceeding is not initiated. The vehicle is keeping in the open place from 19.02.2024 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 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 02.07.2024 in Cr.M.P.No.1703 of 2024 on the file of the learned Judicial Magistrate No.I, Ramanathapuram, is hereby set aside and the learned Judicial Magistrate No.I, Ramanathapuram, 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.75,000/- (Rupees Seventy Five Thousand only) as non-refundable for the vehicle to the credit of the **Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Account No.: 30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832, on or before .08.2024, otherwise the impugned order shall stand**



Crl.R.C.(MD)No.725 of 2024

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, Ramanathapuram;

(iii) the petitioner shall file an affidavit with specific undertaking that he 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 vehicle is to be taken properly and the petitioner shall produce his vehicle as and when required by the Court 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 Court below and the Court 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 for reporting compliance.

01.08.2024



Crl.R.C.(MD)No.725 of 2024

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

RJR

Note: Issue Order Copy on 02.08.2024

To

1. The learned Judicial Magistrate No.VI, Madurai.
2. The Inspector of Police,
TIW II 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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Crl.R.C.(MD)No.725 of 2024

K.K.RAMAKRISHNAN, J.

RJR

Crl.R.C.(MD)No.725 of 2024

01.08.2024