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Crl. R.C.(MD)No.884 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 13.09.2024

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.884 of 2024

Poondi

... Petitioner

Vs.

1.Sakthivel

2.Vadivel

: Respondents 1 & 2/Accused

3.State rep.by the Inspector of Police,
Kattuputhur Police Station,
Trichy District.
Crime No.208 of 2024.

: Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 438 and 442 of BNSS., to call for the entire records pertaining to the order passed by the learned District Munsif cum Judicial Magistrate, Thottiyam in Crl.M.P.No. 1037 of 204 vide order, dated 30.08.2024 and to set aside the same and consequently, direct the learned Judge to return the petitioner's Kubota Agricultural Machinery bearing Reg.No.TN-28-BH-2322 in connection with the case in Crime No.208 of 2024 on the file of the third respondent police.

For Petitioner : Mr.K.Arunraj

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)
for R3.



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ORDER

The Criminal Revision Case is directed against the order passed in Crl.M.P.No.1037 of 2024, dated 30.08.2024 on the file of the learned District Munsif cum Judicial Magistrate, Thottiyam, dismissing the petition filed under Sections 497 r/w 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle/Kubota Agricultural Machinery bearing Reg.No.TN-28-BH-2322. On 30.07.2024, the respondent police intercepted the vehicle bearing Reg.No.TN-28-BH-2322 and seized the vehicle as the same was used for transporting of river sand illegally without any valid license or permit and registered a case in Crime No.208 of 2024 for the offences under Section 303(2) BNSS and Section 21(4) of Mines and Minerals (Development & Regulation)Act, 1957.

3. It is not in dispute that the petitioner has approached the learned District Munsif cum Judicial Magistrate, Thottiyam, for returning of the said vehicle in Crl.M.P.No.1037 of 2024 and the learned Judicial Magistrate, vide order dated 30.08.2024, has dismissed the petition.



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Challenging the dismissal order, the above Criminal Revision came to be filed before this Court.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the State.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is not having any previous cases for similar offence and that the said vehicle was not involved in any other cases.

6. The learned counsel appearing for the petitioner would submit that the Kubota Agricultural Machinery bearing Reg.No.TN-28-BH-2322 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.

7. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the



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value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the revision.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 30.08.2024 passed in Crl.M.P.No.1037 of 2024 by the learned District Munsif cum Judicial Magistrate, Thottiyam, is hereby set aside and the vehicle/Kubota Agricultural Machinery bearing Reg.No.TN-28-BH-2322, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

- (a) the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Trichy District;
- (b) the petitioner shall execute a bond for a sum of **Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only)**, with two sureties for a likesum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Thottiyam ;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned District Munsif cum Judicial Magistrate, Thottiyam;



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(d) the petitioner shall not alienate and shall not make any alteration
in the vehicle;

(e) the petitioner shall produce the vehicle before the Court and
before the respondent police as and when required;

13.09.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das

To

- 1.The District Munsif cum Judicial Magistrate,
Thottiyam.
- 2.The Inspector of Police,
Kattuputhur Police Station,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
Crl.R.C.(MD)No.884 of 2024

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