



Crl.R.C.(MD)No.910 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.910 of 2024

Balamurugan

... Petitioner

Vs.

State rep by
The Inspector of Police,
Rajathani Police Station,
Theni District.
(Crime No.175 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the order dated 06.09.2024 in Crl.M.P.No.4085 of 2024 in Crime No.175 of 2024 on the file of the learned Judicial Magistrate, Aundipatti, set aside the same and consequentially direct the learned Judicial Magistrate, Aundipatti to return the vehicle bearing Reg.No.TN-46-Z-6341 to the petitioner herein.

For Petitioner : Mr.M.Prabu

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.4085 of 2024 in Crime No.175 of 2024 dated 06.09.2024 on the file of the Judicial Magistrate, Aundipatti, dismissing the petition filed under Section 497 B.N.S.S.

2. The petitioner claims to be the owner of Mahindra Tractor bearing Registration No.TN-46-Z-6341. On 05.08.2024, the respondent police has registered a case in Crime No.175 of 2024 for the offences under Section 303(2) BNS and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 and seized the above said vehicle bearing Registration No.TN-46-Z-6341 for the alleged illegal transportation of river sand.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Aundipatti for returning of the said vehicle in Crl.M.P.No.4085 of 2024 and the learned Judicial Magistrate, vide order dated 06.09.2024, has dismissed the petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.



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

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that that the petitioner is the owner of the vehicle and is the third accused, that the petitioner is having one previous case 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 vehicle bearing Registration No.TN-46-Z-6341 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that the vehicle is with the police for more than one month, 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. He would further submit that the original R.C. book is with the finance company and that he is not in a position to produce the original R.C. book.



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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 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 and thereby setting aside the impugned order dated 06.09.2024 passed in Crl.M.P.No.4085 of 2024, by the learned Judicial Magistrate, Aundipatti.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 06.09.2024 passed in Crl.M.P.No.4085 of 2024 by the learned Judicial Magistrate, Aundipatti, is hereby set aside and the vehicle/Mahindra Tractor bearing Registration No.TN-46-Z-6341, 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, Theni District;



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- (b) the petitioner shall execute a bond for a sum of **Rs.1,00,000/- (Rupees One Lakh only)**, with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Aundipatti;
- (c) the petitioner shall produce the certified copy of the R.C. Book from the concerned finance company undertaking that the original R.C. Book is available with them and that they had knowledge about the pendency of the criminal case against the petitioner before the learned Judicial Magistrate, Aundipatti;
- (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;

24.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The Judicial Magistrate,
Aundipatti.
- 2.The Inspector of Police,
Rajathani Police Station,
Theni District.



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K.MURALI SHANKAR,J.

csn

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CrI.R.C.(MD)No.910 of 2024

Dated: 24.09.2024