



Crl.O.P.(MD)No.16904 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16904 of 2024

Muthupandi

... Petitioner

Vs.

State rep by
The Inspector of Police,
Vaigaidam Police Station,
Theni District.
(Crime No.26 of 2024)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 BNSS, to set aside the order passed by the learned Principal District Court, Theni in Crl.R.C.No.21 of 2024 in Crl.M.P.No.3479 of 2024 dated 10.09.2024.

For Petitioner : Mr.S.Vikram

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition is directed against the order passed in Crl.R.C.No.21 of 2024 dated 10.09.2024 on the file of the Principal



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District Court, Theni, dismissing the petition filed under Section 438
B.N.S.S.

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2. The petitioner claims to be the owner of Tipper Lorry bearing Registration No.TN-45-BC-7231. On 06.07.2024, the respondent police has registered a case in Crime No.26 of 2024 for the offences under Section 303(2) BNS and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and seized the above said vehicle bearing Registration No.TN-45-BC-7231 for the alleged illegal transportation of gravel 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.3479 of 2024 and the learned Judicial Magistrate, vide order dated 23.07.2024, has dismissed the petition. Aggrieved by the order of dismissal, the petitioner has filed a revision in Crl.R.C.No.21 of 2024 before the Principal District Judge, Theni and the learned Principal District Judge, vide order dated 10.09.2024, has dismissed the revision. Challenging the same, the present petition came to be filed.



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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 the petitioner is not an accused, that the petitioner is not having any previous cases 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-45-BC-7231 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 two months, 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 petition and thereby setting aside the impugned order dated 10.09.2024 passed in Crl.R.C.No.21 of 2024, by the learned Principal District Judge, Theni.

8. Accordingly, this Criminal Original Petition is allowed and the order dated 10.09.2024 passed in Crl.R.C.No.21 of 2024 by the learned Principal District Judge, Theni, is hereby set aside and the vehicle/Tipper Lorry bearing Registration No.TN-45-BC-7231, 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;
- (b) the petitioner shall execute a bond for a sum of **Rs.6,00,000/- (Rupees Six Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Aundipatti;



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- (c) the petitioner shall deposit the original Registration Certificate of the vehicle 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;

03.10.2024

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

- To
- 1.The Principal District Judge,
Theni.
 - 2.The Judicial Magistrate,
Aundipatti.
 - 3.The Inspector of Police,
Vaigaidam Police Station,
Theni District.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
Crl.O.P.(MD)No.16904 of 2024

Dated: 03.10.2024