



Crl.R.C(MD)No.1022 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1022 of 2024

Ananthakumar

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
(Crime No.15 of 2024)

2.R.Kumar

... Respondents

*(R2 is impleaded as per order of the Court, dated 05.11.2024
in Crl.M.P(MD)No.11788 of 2024 in Crl.R.C(MD)No.1022 of
2024)*

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the order, dated 26.09.2024 made in Cr.M.P.No.3394 of 2024 on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu and set aside the order and direct the respondent herein to grant interim custody of the vehicle viz., TATA Super ACE bearing Registration No.TN-38-BR-7365, which has been seized by the respondent herein in Crime No.15 of 2024.



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For Petitioner : Mr.K.M.Karunakaran
For R1 : Mr.M.Vaikkam Karunanidhi
Government Advocate (Crl. Side)
For R2 : Ms.A.Banumathi

ORDER

This Criminal Revision Case is filed to set aside the order, dated 26.09.2024 made in Cr.M.P.No.3394 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Orathanadu and direct the respondent herein to grant interim custody of the vehicle viz., TATA Super ACE bearing Registration No.TN-38-BR-7365.

2. The petitioner claims to be the owner of the TATA Super ACE bearing Registration No.TN-38-BR-7365. On 06.01.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting river sand without any valid license or permit, and registered a case in Crime No.15 of 2024 for the offence under Section 379 of IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957.



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3. It is not in dispute that the petitioner has approached the learned District Munsif-cum-Judicial Magistrate, Orathanadu by filing a petition for return of vehicle bearing registration No.TN-38-BR-7365 in Cr.M.P.No.3394 of 2024, and the learned District Munsif-cum-Judicial Magistrate, Orathanadu vide his order, dated 26.09.2024, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

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

5. The learned counsel appearing for the petitioner would submit that the vehicle bearing Reg.No.TN-38-BR-7365 is owned by the petitioner, and that the said vehicle has no connection whatever with the alleged occurrence, and that the vehicle is with the police for the past ten months, and 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.



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6. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that the vehicle was used for transporting river sand, and the petitioner is the owner of the vehicle. He would further submit that the confiscation proceeding has not been initiated.

7. The learned counsel for the second respondent has submitted that the second respondent sold the vehicle to the petitioner in the year 2021 and has not raised any objection to allow this petition.

8. In this case, the vehicle was seized on 06.01.2024. The vehicle is keeping in the open place from 06.01.2024 onwards. Further, 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. Considering the overall facts and circumstances of the case, this Court is inclined to allow this 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 [2002 (10) SCC 283]*.



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9. Accordingly, this Criminal Revision Case is allowed, and the order, dated 26.09.2024 passed in Cr.M.P.No.3394 of 2024 by the learned District Munsif-cum-Judicial Magistrate, Orathanadu, is hereby set aside and the vehicle viz., TATA Super ACE bearing Registration No.TN-38-BR-7365, 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 :

(i) the petitioner is directed to deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Thanjavur District;

(ii) On such deposit, 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 District Munsif-cum-Judicial Magistrate, Orathanadu;

(iii) the vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head Clerk of the learned District Munsif-cum-Judicial Magistrate, Orathanadu at the cost of the petitioner and the petitioner's signature to be obtained in the



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backside of the photographs, and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iv) The petitioner shall register the vehicle in his name by producing the same before the concerned registering authority and shall deposit the original Registration Certificate of the vehicle before the learned District Munsif-cum-Judicial Magistrate, Orathanadu and the said process shall be completed within a period of one month from the date of release of the vehicle;

(v)The petitioner shall not dispose or alienate or change the physical features the vehicle till the disposal of the case;

(vi)The petitioner shall produce the vehicle as and when ordered by the trial Court and the petitioner shall cooperate with the trial Court for disposal of the case.

12.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The District Munsif-cum-Judicial Magistrate,
Orathanadu.
- 2.The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

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