



Crl.R.C.(MD)No.1233 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1233 of 2024

Praveen Raj

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Pazhugal Police Station,
Kanniyakumari District
(Crime No.101 of 2023)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order in Crl.M.P.No.353 of 2024, dated 22.01.2024, passed by the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District and set aside the same, and direct the respondent police to return the JCB Earth Excavator bearing Registration No.TN-75-X-5662 to the revision petitioner.

For Petitioner : Mr.B.Arun

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

The Criminal Revision Case is directed against the order, dated 22.01.2024, passed in Crl.M.P.No.353 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District dismissing the petition filed under Sections 451 and 457 of Cr.P.C.

2. The petitioner claims to be the owner of the vehicle JCB Earth Excavator bearing Registration No.TN-75-X-5662. On 07.12.2023, the respondent police seized the vehicle on the ground that the vehicle was used for digging red sand without any valid license or permit, and registered a case in Crime No.101 of 2023 for the offence under Section 379 of Indian Penal Code.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District by filing a petition for the return of vehicle bearing registration No.TN-75-X-5662 in Crl.M.P.No.353 of 2024, and the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District vide his order, dated



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22.01.2024, 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 Additional Public Prosecutor appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle bearing Reg.No.TN-75-X-5662 is owned by the petitioner, and the said vehicle has no connection whatever with the alleged occurrence, and the vehicle is with the police for the past eleven and a half months, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Therefore, interim custody may be granted to the petitioner.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the vehicle was used for digging red sand without valid license or permit, and the petitioner is the owner of the vehicle. He would also submit that the confiscation proceedings has not been initiated yet.



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7. In this case, the vehicle was seized on 07.12.2023. The vehicle is keeping in the open place from 07.12.2023 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 over all 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]***.

8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 22.01.2024, passed in Crl.M.P.No.353 of 2024 by the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District, is hereby set aside and the vehicle JCB Earth Excavator bearing Reg.No.TN-75-X-5662 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 :



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(i) the petitioner is directed to deposit a sum of **Rs.40,000/- (Rupees Forty Thousand only)** as non-refundable deposit for the said vehicle to the credit of **the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Virudhunagar District, Account No.:30700985498, State Bank of India, Tiruchuli, IFSC Code : SBIN0003832;**

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District;

(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 Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District at the cost of the petitioner and the petitioner's signature to be obtained in the 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;



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(iv) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.I, Kuzhithurai, Kanniyakumari District;

(v) the petitioner shall not alienate and shall not alter the physical features of the vehicle till the disposal of the case;

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

27.11.2024

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To

1.The Judicial Magistrate No.I,
Kuzhithurai, Kanniyakumari District.

2.The Inspector of Police,
Pazhugal Police Station,
Kanniyakumari District

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



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P.VADAMALAI, J.

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