



Crl.R.C.(MD)No.1091 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1091 of 2024

Munusamy

... Petitioner

Vs.

State of Tamilnadu rep.by
The Sub Inspector of Police,
Navalpattu Police Station,
Trichy.
(Crime No.134 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records to the order dated 03.10.2024 passed in Cr.M.P.No.23862 of 2024 in Crime No.134 of 2024 on the file of the Judicial Magistrate No.III, Tiruchirappalli and to set aside the same and allow the petition.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.M.Vaikkam Karunanidhi
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Case is directed against the order, dated 03.10.2024 passed in Cr.M.P.No.23862 of 2024 on the file of the learned Judicial Magistrate No.III, Tiruchirappalli, dismissing the petition filed by the petitioner under Sections 497 and 503 of BNSS for return of JCB bearing registration number TN-45-BR-7508.

2. The petitioner claims to be the owner of the JCB bearing Registration No.TN-45-BR-7508. On 28.08.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting illegal gravel sand without any valid license or permit, and registered a case in Crime No.134 of 2024 for the offence under Sections 303(2) of BNS r/w 21(4) of the Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.III, Tiruchirappalli by filing a petition for return of vehicle bearing registration No.TN-45-BR-7508 in Cr.M.P.No.



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23862 of 2024, and the learned Judicial Magistrate No.III, Tiruchirappalli vide his order, dated 03.10.2024, 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 respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle bearing Reg.No.TN-45-BR-7508 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 three 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.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the vehicle was used for



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transporting gravel sand, and the petitioner is the owner of the vehicle.

He would further submit that the confiscation proceeding has not been initiated.

7. In this case, the vehicle was seized on 28.08.2024. The vehicle is keeping in the open place from 28.08.2024 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 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 03.10.2024 passed in Cr.M.P.No.23862 of 2024 by the learned Judicial Magistrate No.III, Tiruchirappalli, is hereby set aside and the vehicle JCB bearing Reg.No.TN-45-BR-7508, is ordered to be returned to the petitioner for interim custody subject to the confiscation



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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.60,000/- (Rupees Sixty 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.6,00,000/- (Rupees Six Lakhs only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.III, Tiruchirappalli;

(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.III, Tiruchirappalli 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;

(iv) the petitioner shall deposit the original Registration Certificate of the vehicle before the



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learned Judicial Magistrate No.III, Tiruchirappalli;

(v) the petitioner shall not alienate and shall not alternate 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;

29.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Judicial Magistrate No.III,
Tiruchirappalli.
- 2.The Sub Inspector of Police,
Navalpattu Police Station,
Trichy.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

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