



Crl.R.C.(MD)No.1068 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1068 of 2024

Naveen

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Manapparai Police Station,
Trichy District
(Crime No.391 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order passed by the learned Judicial Magistrate, Manapparai in Cr.M.P.No.3695 of 2024 vide order dated 04.10.2024 and set aside the same, and consequently, direct the learned Judicial Magistrate, Manapparai to return the petitioner's Kubota Tractor Model – MU4501-2WD bearing Chasis No.KBULBAFNKREC30662 and Engine No.BPQ3373 in connection with the case in Crime No.391 of 2024 on the file of the respondent police.



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For Petitioner : Mr.K.Arunraj

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

ORDER

The Criminal Revision Case is directed against the order, dated 04.10.2024, passed in Cr.M.P.No.3695 of 2024 on the file of the learned Judicial Magistrate, Manapparai dismissing the petition filed under Section 497 of BNSS.

2. The petitioner claims to be the owner of the vehicle Kubota Tractor Model – MU4501-2WD bearing Chasis No.KBULBAFNKREC30662 and Engine No.BPQ3373. On 22.08.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting sand without any valid license or permit, and registered a case in Crime No.391 of 2024 for the offence under Sections 303(2) of BNS r/w 21(1) of the Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Manapparai by filing a petition for the return



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of vehicle Kubota Tractor Model – MU4501-2WD bearing Chasis No.KBULBAFNKREC30662 and Engine No.BPQ3373 in Cr.M.P. No.3695 of 2024, and the learned Judicial Magistrate, Manapparai vide his order, dated 04.10.2024, 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, Kubota Tractor Model – MU4501-2WD bearing Chasis No.KBULBAFNKREC30662 and Engine No.BPQ3373, in question is new one, and the petitioner is not having the RC Book for the said vehicle. A copy of invoice has been enclosed to show that the petition mentioned vehicle is owned by the petitioner, and the said vehicle has no connection whatever with the alleged occurrence, and that the vehicle is with the police for the past two and a half months, and that if the vehicle



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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, which was used for transporting sand without valid license or permit, is a new vehicle. He would further submit that so far, the confiscation proceeding has not been initiated.

7. In this case, the vehicle was seized on 22.08.2024. The vehicle is keeping in the open place from 22.08.2024 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, and also considering the fact that the invoice of the said tractor is also in the name of the petitioner, 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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8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 04.10.2024 passed in Cr.M.P.No.3695 of 2024 by the learned Judicial Magistrate, Manapparai, is hereby set aside and the vehicle Kubota Tractor Model – MU4501-2WD bearing Chasis No.KBULBAFNKREC30662 and Engine No.BPQ3373, 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.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Tiruchirappalli District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.4,00,000/- (Rupees Four Lakhs only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Manapparai;

(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, Manapparai at the cost of the petitioner and the petitioner's



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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 register the vehicle in his name by producing the vehicle before the concerned registering authority, and shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Manapparai, and the said exercise shall be completed within a period of one month from the date of release of the vehicle;

(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;

14.11.2024

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NCC : Yes / No

Index : Yes / No

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P.VADAMALAI, J.

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To

- 1.The Judicial Magistrate,
Manapparai
- 2.The Inspector of Police,
Manapparai Police Station,
Trichy District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

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