



Crl.R.C.(MD)No.1087 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1087 of 2024

Rajendran

... Petitioner

Vs.

The Inspector of Police,
Annavasal Police Station,
Pudukottai District.
(Crime No.259 of 2024)

... Respondent

PRAYER : Criminal Revision Case filed under Section 438 and 448 of BNSS, to call for the records pertaining to the order passed in Crl.M.P.No.678 of 2024 on the file of the District Munsif-cum-Judicial Magistrate, Iluppur, dated 28.10.2024 and set aside the same.

For Petitioner : Mr.B.Mahendrarajan

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



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ORDER

The Criminal Revision Case is filed to set aside the order passed in Crl.M.P.No.678 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Illuppur, dated 28.10.2024.

2. The petitioner claims to be the owner of the Ashok Leyland lorry bearing Registration No.TN-63-BY-9432. On 22.10.2024, 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.259 of 2024 for the offence under Sections 303(2) of BNSS and Sections 21(1) and 21(2) of Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the learned District Munsif-cum-Judicial Magistrate, Illuppur by filing a petition for the return of vehicle bearing Registration No.TN-63-BY-9432 in Crl.M.P.No.678 of 2024, and the learned District Munsif-cum-Judicial Magistrate, Illuppur vide his order, dated 28.10.2024, has



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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-63-BY-9432 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 one month, 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 (Crl.Side) appearing for the respondent would submit that the vehicle was used for transporting illegal gravel sand, and the petitioner is the owner of the vehicle. He would further submit that the confiscation proceeding has not been



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initiated.

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7. In this case, the vehicle was seized on 22.10.2024. The vehicle is keeping in the open place from 22.10.2024 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 28.10.2024 passed in Crl.M.P.No.678 of 2024 by the learned District Munsif-cum-Judicial Magistrate, Illuppur, is hereby set aside and the vehicle Ashok Leyland lorry bearing Reg.No.TN-63-BY-9432, 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.60,000/- (Rupees Sixty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Pudukottai District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of **Rs.7,00,000/- (Rupees Seven Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Illuppur;

(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, Illuppur 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 learned District Munsif-cum-Judicial Magistrate, Illuppur;



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(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;

15.11.2024

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

To

- 1.The District Munsif-cum-Judicial Magistrate,
Illuppur.
- 2.The Inspector of Police,
Annavasal Police Station,
Pudukottai 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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