



Crl.R.C.(MD)No.1079 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1079 of 2024

Shiva @ Sathasivam

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Manapparai Police Station,
Trichy District
(Crime No.423 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.3709 of 2024 vide order dated 14.10.2024 and set aside the same, and consequently, direct the learned Judicial Magistrate, Manapparai to return the petitioner's Tipper Lorry bearing registration No.TN-39-BZ-3535 in connection with the case in Crime No.423 of 2024 on the file of the respondent police.



Crl.R.C.(MD)No.1079 of 2024

WEB COPY

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 14.10.2024, passed in Cr.M.P.No.3709 of 2024 on the file of the learned Judicial Magistrate, Manapparai dismissing the petition filed under Section 503 r/w 497 of BNSS.

2. The petitioner claims to be the owner of the vehicle Tipper Lorry bearing Registration No.TN-39-BZ-3535. On 07.09.2024, 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.423 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



Crl.R.C.(MD)No.1079 of 2024

of vehicle bearing registration No.TN-39-BZ-3535 in Cr.M.P.No.3709 of 2024, and the learned Judicial Magistrate, Manapparai vide his order, dated 14.10.2024, 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-39-BZ-3535 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 two 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.



Crl.R.C.(MD)No.1079 of 2024

WEB COPY

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the vehicle was used for transporting sand without valid license or permit, and the petitioner is the owner of the vehicle. He would further submit that so far, the confiscation proceeding has not been initiated.

7. In this case, the vehicle was seized on 07.09.2024. The vehicle is keeping in the open place from 07.09.2024 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 14.10.2024 passed in Cr.M.P.No.3709 of 2024 by the learned Judicial Magistrate, Manapparai, is hereby set aside and the



Crl.R.C.(MD)No.1079 of 2024

vehicle Tipper Lorry bearing Reg.No.TN-39-BZ-3535, 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.40,000/- (Rupees Forty 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.7,00,000/- (Rupees Seven 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 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;



Crl.R.C.(MD)No.1079 of 2024

(iv) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Manapparai;

(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

mkn

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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.



WEB COPY



CrI.R.C.(MD)No.1079 of 2024

P.VADAMALAI, J.

mkkn

CrI.R.C.(MD)No.1079 of 2024

14.11.2024