



Crl.R.C.(MD)No.1119 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

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Tamilarasan

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Annavasal Police Station,
Pudukkottai District
(Crime No.221 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the order passed in Cr.M.P.No. 657 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai District, dated 28.10.2024, in Crime No.221 of 2024 on the file of the respondent police and set aside the same, and allow this criminal revision.



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

ORDER

The Criminal Revision Case is directed against the order passed in Cr.M.P.No.657 of 2024 in Crime No.221 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai District dismissing the petition filed under Section 497 of BNSS.

2. The petitioner claims to be the owner of the vehicle Ashok Leyland Lorry bearing Registration No.TN-29-AW-9709. On 28.08.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transportation of 400 pillar stones without any valid license or permit, and the respondent police registered a case in Crime No.221 of 2024 for the offence under Section 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 District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai



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District by filing a petition for the return of vehicle bearing registration No.TN-29-AW-9709 in Cr.M.P.No.657 of 2024, and the learned District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai District vide order, dated 28.10.2024, 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-29-AW-9709 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 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.



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6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is the owner of the vehicle, and that the vehicle may be returned to the petitioner without prejudice to the confiscation proceeding.

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 28.10.2024 passed in Cr.M.P.No.657 of 2024 by the learned District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai District is hereby set aside, and the vehicle Ashok Leyland Lorry bearing



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Reg.No.TN-29-AW-9709, 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, Pudukkottai District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of **Rs.9,00,000/- (Rupees Nine Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai 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 District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai 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 as material object during trial;



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(iv) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned District Munsif cum Judicial Magistrate, Illuppur, Pudukkottai District;

(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;

(vii) the petitioner shall co-operate with the trial Court for disposal of the case.

12.11.2024

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



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P.VADAMALAI, J.

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To

- 1.The District Munsif cum Judicial Magistrate,
Illuppur, Pudukkottai District
- 2.The Inspector of Police,
Annavasal Police Station,
Pudukkottai District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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