



Crl.R.C.(MD)No.1153 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1153 of 2024

Premkumar

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District
(Crime No.747 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.III, Thanjavur District in Crl.M.P.No.273 of 2024 dated 18.10.2024 and set aside the same and consequently, direct the learned Judicial Magistrate No.III, Thanjavur District to return the petitioner's JOHN DEERE tractor, along with its tipper, bearing registration No.TN-68-AL-9973 kept in custody in connection with the case in Crime No.747 of 2022 on the file of the respondent police.



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For Petitioner : Mr.R.L.Dhilipan Pandian
For Respondent : Mr.R.M.Anbunithi
Addl. Public Prosecutor

ORDER

The Criminal Revision Case is directed against the order, dated 18.10.2024, passed in Crl.M.P.No.273 of 2024 on the file of the learned Judicial Magistrate No.III, Thanjavur dismissing the petition filed under Section 497 r/w 503(2) of BNSS.

2. The petitioner claims to be the owner of the vehicle John Deere Tractor with Tipper bearing Registration No.TN-68-AL-9973. On 26.08.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting 1 unit of river sand without any valid license or permit, and registered a case in Crime No.747 of 2024 for the offence under Section 303(2) of BNS r/w Section 21(4) of the Mines and Minerals (Development & Regulation) Act.



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3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.III, Thanjavur by filing a petition for the return of vehicle bearing registration No.TN-68-AL-9973 in Crl.M.P. No.273 of 2024, and the learned Judicial Magistrate No.III, Thanjavur vide his order, dated 18.10.2024, 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 Additional Public Prosecutor appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle bearing Reg.No.TN-68-AL-9973 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.



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6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the owner of the vehicle, and the vehicle was used for transporting 1 unit of river sand.

7. In this case, the vehicle was seized on 26.08.2024. The vehicle is keeping in the open place from 26.08.2024 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 18.10.2024 passed in Crl.M.P.No.273 of 2024 by the learned Judicial Magistrate No.III, Thanjavur, is hereby set aside and the vehicle John Deere Tractor with Tipper bearing Reg.No.TN-68-AL-9973, is



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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.50,000/- (Rupees Fifty 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.4,00,000/- (Rupees Four Lakhs only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.III, Thanjavur;

(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, Thanjavur 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;



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(iv) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.III, Thanjavur;

(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;

18.11.2024

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To

1.The Judicial Magistrate No.III,
Thanjavur.

2.The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

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