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Crl.R.C(MD)No.1245 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.11.2023

Pronounced on : 06.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1245 of 2023

Kalaiselvan

... Petitioner

Vs.

The Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.
(Crime No.27 of 2021)

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 & 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.M.P.No.4914 of 2023, dated 13.09.2023 on the file of the Principal Sessions Judge, Kanyakumari District at Nagercoil and set aside the same as illegal.

For Petitioner : Mr.S.Ayyanar Prem Kumar

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate (Crl.side)

ORDER

This Criminal Revision Case is filed to set aside the order dated 13.09.2023 passed in Crl.M.P.No.4914 of 2023 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil.



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2.The brief facts of the case:

The TATA 909 Tempo bearing registration no. TN 74 AX 4793 was seized by the respondent police as it was used for transport of crushed stones without any valid permit on 30.01.2021. FIR was registered for the offence under Section 379 of IPC and Section 21(1) of MMDR Act, 1957. Thereafter, the revision petitioner being the owner of the vehicle filed the petition in Crl.M.P.No.38 of 2021 before the Principal Sessions Court, Kanyakumari District at Nagercoil for interim custody of the vehicle and the same was allowed on 06.05.2021 subject to conditions among them the petitioner should produce the original R.C. Book relating to the vehicle before the learned Judicial Magistrate No.III, Nagercoil and the petitioner should not alter the nature and character of the vehicle and not to alienate the vehicle in any manner.

3. At this stage, the petitioner filed the petition in Crl.M.P.No.4914 of 2023 seeking return of R.C. Book as he wants to hypothecate the vehicle towards education expenses of his son. The petition was strongly resisted by the respondent police. After hearing both the Principal Sessions Court, Kanyakumari District at Nagercoil dismissed the petition on 13.09.2023. Being aggrieved by the order, the petitioner preferred this Criminal Revision Case.



4. Heard both side and perused the records in this Criminal Revision

Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner wants interim return of R.C. Book to mortgage the vehicle with finance company as he is in need of money for education expenses of his children. He further submits that the petitioner is ready to file undertaking. The trial Court has not considered the circumstances of the education of the petitioner's children.

6.The learned Government Advocate (Crl.side) for the respondent vehemently contended that the petitioner's vehicle was returned with specific condition that the petitioner should not alienate the vehicle. The hypothecation absolutely amounts to alienation. So, the trial Court has correctly dismissed the petition and the impugned order does not need for interference by way of this revision.

7.On hearing both, it is clear that the petitioner's vehicle TATA 909 Tempo bearing registration No. TN 74 AX 4793 was seized by the respondent police as it was used for transport of crushed stones without any valid permit and the case was registered for the offence under Section 379 of IPC and Section 21(1) of MMDR Act, 1957. On filing petition, the



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vehicle was returned to the petitioner on interim custody with conditions specifically that the petitioner should produce the original R.C. Book relating to the vehicle before the learned Judicial Magistrate No.III, Nagercoil and the petitioner should not alter the nature and character of the vehicle and not to alienate the vehicle in any manner.

8. Whiles, the petitioner now prays for interim return of R.C. Book as he wants to hypothecate the vehicle to obtain loan from a finance company towards his children' education. As rightly pointed out by the respondent counsel, the hypothecation amounts to alienation and if the petitioner hypothecates the vehicle it is clearly violation of condition of the trial court imposed while passing the order for return of property. Hence, the trial Court rightly passed the impugned order. In the above circumstances, this Court is not inclined to interfere with the order of the trial Court and this Criminal Revision Case has no merits.

9. In the result, the Criminal Revision Case is dismissed.

06.02.2024

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



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To

- 1.The Principal Sessions Judge,
Kanyakumari District at Nagercoil.
- 2.The Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1245 of 2023

06.02.2024