



Crl.R.C.(MD)No.1213 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1213 of 2024

Mathimaran

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai City
(Crime No.371 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order in Cr.M.P.No.5299 of 2024, dated 04.11.2024, passed by the Judicial Magistrate No.VI, Madurai and set aside the same.

For Petitioner : Mr.K.Sankar

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

The Criminal Revision Case is directed against the order, dated 04.11.2024, passed in Crl.M.P.No.5299 of 2024 on the file of the learned Judicial Magistrate No.VI, Madurai dismissing the petition filed under Sections 497 and 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle TATA Tipper Lorry bearing Registration No.TN-05-T-6498. On 20.09.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting gravel sand without any valid license or permit, and registered a case in Crime No.371 of 2024 for the offence under Sections 303(2) of BNS r/w 21(5) of the Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.VI, Madurai by filing a petition for the return of vehicle bearing registration No.TN-05-T-6498 in Crl.M.P. No.5299 of 2024, and the learned Judicial Magistrate No.VI, Madurai



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vide his order, dated 04.11.2024, 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-05-T-6498 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 three 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.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the vehicle was used for transporting gravel sand without valid license or permit, and the petitioner is the owner of the vehicle.



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7. In this case, the vehicle was seized on 20.09.2024. The vehicle is keeping in the open place from 20.09.2024 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 04.11.2024, passed in Crl.M.P.No.5299 of 2024 by the learned Judicial Magistrate No.VI, Madurai, is hereby set aside and the vehicle TATA Tipper Lorry bearing Reg.No.TN-05-T-6498 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.30,000/- (Rupees Thirty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Madurai District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.VI, Madurai;

(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.VI, Madurai 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 Judicial Magistrate No.VI, Madurai;

(v) the petitioner shall not alienate and shall not alternate the physical features of the vehicle till the disposal of the case;



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(vi) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

26.11.2024

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To

1.The Judicial Magistrate No.VI,
Madurai

2.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai City

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



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P.VADAMALAI, J.

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