



Crl.R.C.(MD)No.1274 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1274 of 2024

Padmanaban

... Petitioner

Vs.

The State of TamilNadu,
Represented by the Inspector of Police,
Annavasal Police Station,
Pudukkottai District
(Crime No.264 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the order, dated 13.11.2024, on the file of the learned District Munsif cum Judicial Magistrate, Illupur in Cr.M.P.No.684 of 2024 and to set aside the order to direct the learned District Munsif cum Judicial Magistrate, Illupur to grant interim custody of the vehicle Ashok Leyland bearing Registration No.TN-63-AR-1375 to the petitioner.

For Petitioner : Mr.M.Jayakumar

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)



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ORDER

The Criminal Revision Case is directed against the order, dated 13.11.2024, passed in Cr.M.P.No.684 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Illupur 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-63-AR-1375. On 24.10.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting 1900 gravel stones without any valid license or permit, and registered a case in Crime No.264 of 2024 for the offence under Section 303(2) of BNS r/w Section 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, Illupur by filing a petition for the return of vehicle bearing registration No.TN-63-AR-1375 in Cr.M.P.No.684 of 2024, and the learned District Munsif cum Judicial



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Magistrate, Illupur vide his order, dated 13.11.2024, 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 Government Advocate (Criminal Side) appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle Ashok Leyland Lorry bearing Reg.No.TN-63-AR-1375 is owned by the petitioner, and the said vehicle has no connection whatever with the alleged occurrence, and the vehicle is with the police for the past one month, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Therefore, interim custody may be granted to the petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is the owner of the vehicle bearing registration No.TN-63-AR-1375, and the vehicle was



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used for transporting 1900 gravel stones without any valid license. He would further submit that the property has already been produced before the trial Court and the same has been assigned R.P.No.138 of 2024.

7. In this case, the vehicle was seized on 24.10.2024. The vehicle is keeping in the open place from 24.10.2024 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 13.11.2024, passed in Cr.M.P.No.684 of 2024 by the learned District Munsif cum Judicial Magistrate, Illupur, is hereby set aside and the vehicle Ashok Leyland Lorry bearing Reg.No.TN-63-AR-1375, is ordered to be returned to the petitioner for interim custody subject to the



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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.5,00,000/- (Rupees Five Lakhs only), with two sureties for a likesum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Illupur;

(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, Illupur 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 District Munsif cum Judicial Magistrate, Illupur;

(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;

03.12.2024

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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 learned District Munsif cum Judicial Magistrate,
Illupur
- 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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