



Crl.R.C.(MD)No.1278 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

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Suguna

... Petitioner

Vs.

The State of TamilNadu,
Represented by the Inspector of Police,
Thiruvidaimaruthur Police Station,
Thanjavur District.
(Crime No.601 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 19.11.2024, on the file of the learned District Munsif cum Judicial Magistrate, Thiruvidaimaruthur in Cr.M.P.No.4135 of 2024 and to set aside the order to direct the respondent herein to grant interim custody of the vehicle viz. Tractor cum Tipper bearing Registration No.TN-49-AJ-5617, which has been seized by the respondent herein in Crime No.601 of 2024.

For Petitioner : Mr.K.M.Karunakaran

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 19.11.2024, passed in Cr.M.P.No.4135 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur dismissing the petition filed under Section 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle Tractor cum Tipper bearing Registration No.TN-49-AJ-5617. On 16.07.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting ½ unit of savudu sand without any valid license or permit, and registered a case in Crime No.601 of 2024 for the offence under Section 303(2) of BNS r/w Section 21(1) 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, Thiruvidadaimaruthur by filing a petition for the return of vehicle bearing registration No.TN-49-AJ-5617 in Cr.M.P.No.4135 of 2024, and the learned District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur, vide order dated



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19.11.2024, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

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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 Tractor cum Tipper bearing Registration No.TN-49-AJ-5617 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 four and a half months, 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-49-AJ-5617, and the vehicle was used for transporting $\frac{1}{2}$ unit of savudu sand.



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7. In this case, the vehicle was seized on 16.07.2024. The vehicle is keeping in the open place from 16.07.2024 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 19.11.2024, passed in Cr.M.P.No.4135 of 2024 by the learned District Munsif cum Judicial Magistrate, Thiruvidadimaruthur, is hereby set aside and the vehicle Tractor cum Tipper bearing Reg.No.TN-49-AJ-5617, 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.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the



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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.2,00,000/- (Rupees Two Lakhs only) with two sureties for a likesum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Thiruvidaimaruthur;

(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, Thiruvidaimaruthur 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 District Munsif cum Judicial Magistrate, Thiruvidaimaruthur;



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(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

To

1.The learned District Munsif cum Judicial Magistrate,
Thiruvidaimaruthur.

2.The Inspector of Police,
Thiruvidaimaruthur 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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