



Crl.R.C(MD)No.1295 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1295 of 2024

Premlatha

... Petitioner

Vs.

State of Tamil Nadu rep. by
The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.
(Crime No.426 of 2024)

... Respondent

PRAYER : Criminal Revision Case filed under Sections 438 r/w 442 of BNSS, to call for the records pertaining to the order, dated 21.11.2024 made in Cr.M.P.No.4220 of 2024 on the file of the District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur and set aside the order and direct the respondent herein to grant interim custody of the vehicle viz., Mahindra 475 D1 Tractor along with Tipper bearing Registration No.TN-51-H-6860, which has been seized by the respondent herein in Crime No.426 of 2024.



Crl.R.C(MD)No.1295 of 2024

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For Petitioner : Mr.K.M.Karunakaran

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

ORDER

The Criminal Revision Case is filed to set aside the order, dated 21.11.2024 made in Cr.M.P.No.4220 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Thiruvidaimaruthur and to grant interim custody of the vehicle viz., Mahindra 475 D1 Tractor with Tipper bearing Registration No.TN-51-H-6860.

2. The petitioner claims to be the owner of the vehicle viz., Mahindra 475 D1 Tractor bearing Registration No.TN-51-H-6860 with Tipper. On 28.07.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting river sand without any valid license or permit, and registered a case in Crime No.426 of 2024 for the offence under Section 303 (2) of BNS and Section 21(1) of the Mines and Minerals (Development & Regulation) Act.



Crl.R.C(MD)No.1295 of 2024

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3. It is not in dispute that the petitioner has approached the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur by filing a petition for the return of vehicle bearing Registration No.TN-51-H-6860 in Cr.M.P.No.4220 of 2024, and the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur vide his order, dated 21.11.2024, 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 (Crl.Side) appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle bearing Reg.No.TN-51-H-6860 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.



Crl.R.C(MD)No.1295 of 2024

WEB COPY

6. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the vehicle was used for transporting river sand illegally, and the petitioner is the owner of the vehicle. He would further submit that the confiscation proceeding has not been initiated.

7. In this case, the vehicle was seized on 28.07.2024. The vehicle is keeping in the open place from 28.07.2024 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 overall 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 21.11.2024 passed in Cr.M.P.No.4220 of 2024 by the learned District Munsif-cum-Judicial Magistrate, Thiruvidadimaruthur, is



CrI.R.C(MD)No.1295 of 2024

hereby set aside and the vehicle Mahindra 475 D1 Tractor bearing Reg.No.TN-51-H-6860 and tipper, 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.20,000/- (Rupees Twenty 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.3,00,000/- (Rupees Three Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Thiruvidadaimaruthur;

(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, Thiruvidadaimaruthur at the cost of the petitioner and the petitioner's signature to be obtained in the backside of the photographs, and the said



Crl.R.C(MD)No.1295 of 2024

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 register the vehicle in her name by producing the same before the concerned registering authority and shall deposit the original Registration Certificate of the vehicle before the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur and the said process shall be completed within a period of one month from the date of release of the vehicle;

(v)The petitioner shall not dispose or alienate or change the physical features the vehicle till the disposal of the case;

(vi)The petitioner shall produce the vehicle as and when ordered by the trial Court and the petitioner shall cooperate with the trial Court for disposal of the case.

10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Crl.R.C(MD)No.1295 of 2024

To

- 1.The District Munsif-cum-Judicial Magistrate,
Thiruvudaimaruthur.
- 2.The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C(MD)No.1295 of 2024

P.VADAMALAI, J.

VSD

Crl.R.C(MD)No.1295 of 2024

10.12.2024