



Crl.R.C.(MD)No.1385 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1385 of 2024

Shanmugavel

... Petitioner

Vs.

State rep.by
The Sub Inspector of Police,
Dhalavaipuram Police Station,
Virudhunagar District.
(Crime No.174 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the judgment of the Judicial Magistrate, Rajapalayam, dated 23.08.2024 made in Crl.M.P.NO.7617 of 2024 and set aside the same.

For Petitioner : Mr.V.Palpandi

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

ORDER

The Criminal Revision Case is directed against the order, dated 23.08.2024, passed in Crl.M.P.No.7617 of 2024 on the file of the Judicial



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Magistrate, Rajapalayam dismissing the petition filed under Section 497(2) of BNSS.

2. The petitioner claims to be the owner of the vehicle Tractor bearing Registration No.TN-67-S-3676. On 06.07.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting 1 unit of Kanmai sand without any valid license or permit, and registered a case in Crime No.174 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 Judicial Magistrate, Rajapalayam by filing a petition for the return of vehicle bearing registration No.TN-67-S-3676 in Crl.M.P.No.7617 of 2024, and the Judicial Magistrate, Rajapalayam vide his order, dated 23.08.2024, 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 bearing Reg.No.TN-67-S-3676 is owned by the petitioner, and the vehicle is with the police for the past five months, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Further, he would submit that the original RC Book of this vehicle is already under the custody of the trial Court in R.P.R.No.876 of 2017. Therefore, interim custody of the vehicle 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-67-S-3676, and the vehicle was used for transporting 1 unit of Kanmai sand. He would also submit that the petitioner and his vehicle were already involved in one previous case, which was registered in Crime No.432 of 2017. The vehicle was seized



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by the respondent police and thereafter, interim custody of the vehicle was granted to the petitioner by the learned Judicial Magistrate, Rajapalayam, in Crl.M.P.No.10371 of 2017, for which, original RC Book of the vehicle was produced by the petitioner before the trial Court and the same is now under the custody of the trial Court in R.P.R.No.876 of 2017. Further, he would submit that the value of the vehicle is Rs.3,00,000/-.

7. In this case, the vehicle was seized on 06.07.2024. The vehicle is kept in the open place from 06.07.2024 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 23.08.2024, passed in Crl.M.P.No.7617 of 2024 by the



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Judicial Magistrate, Rajapalayam is hereby set aside and the vehicle Tractor bearing Reg.No.TN-67-S-3676 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 credit of the District Mineral Foundation Trust, Virudhunagar District;

(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 Judicial Magistrate, Rajapalayam;

(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 Judicial Magistrate, Rajapalayam 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 not alienate and shall not alternate the physical features of the vehicle till the disposal of the case; and

(v) the petitioner shall produce the vehicle before the Court as and when required.

9. Since the original RC Book of the aforesaid vehicle is already under the custody of the trial Court, the same can be kept until disposal of the present case also.

20.12.2024

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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 Judicial Magistrate,
Rajapalayam
- 2.The Sub Inspector of Police,
Dhalavaipuram Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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