



Crl.R.C(MD)No.1327 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1327 of 2024

Raghul

... Petitioner

Vs.

State of Tamilnadu rep.by
The Sub Inspector of Police,
Thottiyam Police Station,
Trichy District.
(Crime No.235 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records in Crl.M.P.No.1192 of 2024, dated 25.10.2024 on the file of the District Munsif-cum-Judicial Magistrate, Thottiyam and set aside the same and grant interim custody of the vehicle Mahendra Bolero Pickup bearing Registration No.TN-48-AV-8966.

For Petitioner : Mr.B.Vetrivel

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



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ORDER

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This Criminal Revision Case is filed to set aside the order, dated 25.10.2024 passed in Crl.M.P.No.1192 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Thottiyam, and to grant interim custody of the vehicle viz., Mahendra Bolero Pickup bearing Registration No.TN-48-AV-8966.

2. The petitioner claims to be the owner of the Mahendra Bolero Pickup bearing Registration No.TN-48-AV-8966. On 26.08.2024, 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.235 of 2024 for the offence under Section 303(2) of BNS and 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, Thottiyam by filing a petition for return of vehicle bearing registration No.TN-48-AV-8966 in Crl.M.P.No.1192 of 2024, and the learned District Munsif-cum-Judicial



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Magistrate, Thottiyam vide her order, dated 25.10.2024, 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 bearing Reg.No.TN-48-AV-8966 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 Government Advocate (Criminal 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



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vehicle. He would further submit that the confiscation proceeding has not been initiated.

7. In this case, the vehicle was seized on 26.08.2024. The vehicle is keeping in the open place from 26.08.2024 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 25.10.2024 passed in Crl.M.P.No.1192 of 2024 by the learned District Munsif-cum-Judicial Magistrate, Thottiyam, is hereby set aside and the vehicle Mahendra Bolero Pickup bearing Registration No.TN-48-AV-8966, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the



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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.20,000/- (Rupees Twenty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Trichy District;

(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, Thottiyam;

(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, Thottiyam 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, Thottiyam;



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(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 before the Court and before the respondent police as and when required;

11.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

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



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P.VADAMALAI, J.

VSD

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