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Crl.R.C(MD)No.1334 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2023

Pronounced on : 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1334 of 2023

N.Manikuttan

... Petitioner

Vs.

State represented by
The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
(Crime No.154 of 2023)

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the entire records pertaining to the order passed by the Judicial Magistrate Court, Kuzhithurai, Kanyakumari District in Cr.M.P.No.11317 of 2023 vide order dated 06.10.2023 and set-aside the same and consequently direct the above said the Judicial Magistrate Court, Kuzhithurai, Kanyakumari District to return the petitioner's Eicher 10.95 Good Carrier Registration Number KL 31 D 0357 kept in the interim custody of the above said Court, in connecting with the case in Crime No.154 of 2023 on the file of the respondent police.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate (Crl.side)



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ORDER

This Criminal Revision Case is filed to set aside the order dated 06.10.2023 made in Crl.M.P.No.11317 of 2023 on the file of the learned Judicial Magistrate, Kuzhithurai and to grant interim custody of the vehicle Eicher 10.95 Goods Carrier bearing registration No.KL 31 D 0357 which was seized by the respondent in Crime No.154 of 2023.

2.The brief facts of the case:

The revision petitioner is the owner of the vehicle bearing registration No.KL 31 D 0357. On 17.09.2023 at 03.00 p.m. the vehicles bearing registration No.KL 31 D 0357, KL 19 N 2817, KL 21 R 6388 carrying plastic, medical and meat wastes coming in rash manner were restrained by the Manjaalumoodu village and on the basis of complaint given by the defacto complainant the case was registered. The vehicles were seized by the respondent police. Thereafter, the petitioner filed petition in Crl.M.P.No.11317 of 2023 before the learned Judicial Magistrate No.1, Kuzhithurai. The petition was resisted by the respondent police. After hearing both the said petition was dismissed on 06.10.2023. Being aggrieved by the order, the petitioner preferred this Criminal Revision Case.

3. Heard both side and perused the records in this Criminal Revision Case.



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4. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the vehicle bearing registration No.KL 31 D 0357. The vehicle carrying jack fruit waste was plying on the road, while so the vehicle was seized by the respondent police upon false complaint. The accused persons misused the vehicle of the petitioner. The petitioner has not committed any offence and he is not arrayed as an accused in this case. The petitioner's vehicle was kept idle in open place from the date of seizure. The vehicle will get ruined by sun light and rain and it would lose its value. The petitioner is ready to give undertaking and to deposit any amount. The trial Court has not considered the settled position of law in returning the property. Hence, the revision may be allowed.

5.The learned Government Advocate (Crl.side) for the respondent filed counter and contended that there were three vehicles involved in this case. The goods carrier vehicles were used to drop the plastic, medical and meat wastes from Kerala near the Manjaalumoodu village. The vehicles were caught hold by the villagers with the said waste. If the vehicle is returned the petitioner would continue the offence of this similar nature. Therefore, he strongly opposed this petition.



6. On hearing both, it is clear that the petitioner is not an accused in this case. He is the owner of the vehicle bearing registration number KL 31 D 0357. The petitioner states that the accused persons misused his vehicle and the vehicle is kept idle in the open place of the respondent police. The vehicle was remanded to Court under R.P.R.No.341 of 2023 and the same was handed over to the respondent police for custody. It is also clear that the petitioner is the owner of the vehicle and there is no dispute in it. The petitioner's vehicle was seized by the respondent police on 17.09.2023. The petitioner alleged that his vehicle is in open place without any protection and thereby his vehicle would get ruined by sun and rain. The Hon'ble Supreme Court issued guidelines in **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175** in respect of return of seized properties by the police. The case was registered for the alleged offence under Sections 279, 270, 277 of IPC. The respondent police has not stated anything that the respondent police was going to initiate confiscation proceedings as like vehicles seized under MMDR Act. The petitioner's vehicle is not involved in any previous case. In the above circumstances, this Court is inclined to allow this Criminal Revision Case with conditions.

7. In the result, the Criminal Revision Case is allowed and the order dated 06.10.2023 passed in Crl.M.P.No.11317 of 2023 on the file of the



learned Judicial Magistrate No.1, Kuzhithurai is set aside. The vehicle in question in this case is ordered to be returned to the petitioner on interim custody subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Kuzhithurai;

(ii) The petitioner is directed to deposit a sum of **Rs.50,000/- (Rupees Fifty Thousand only) as non refundable deposit to the credit of the Environmental Committee Operated by Registrar (Judicial) [Account No.7633863037; MICR Code: 625019020, CIF No: 30602376727, IFSC Code: IDIB000H040, High Court Branch, Madurai (2001)]**, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the trial Court while executing the sureties;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle before the trial court and also file an affidavit with specific undertaking that the petitioner shall not use this vehicle for any illegal purpose;

(iv) The petitioner shall submit photograph of the vehicle along with Compact Disc duly certified under section 65 B of Indian Evidence Act;



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

(vi) The petitioner shall produce the vehicle in question before the learned Judicial Magistrate No.1, Kuzhithurai on first working day of every month until further orders.

02.02.2024

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

To

- 1.The Judicial Magistrate Court,
Kuzhithurai,
Kanyakumari District.
- 2.The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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02.02.2024