



Crl.R.C.(MD).No.719 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.719 of 2024

Kathick

... Petitioner

Vs.

State Rep. By
The Inspector of Police,
Rajathani Police Station,
Theni District.

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order dated 28.06.2024 in Crl.M.P.No.3110 of 2024 in Crime No.73 of 2024 on the file of the learned Judicial Magistrate, Aundipatti, set aside the same and to return the vehicle bearing Reg.No.51-L-2992 to the petitioner herein.

For Petitioner : Mr.M.Prabu
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)



Crl.R.C.(MD).No.719 of 2024

ORDER

WEB COPY

The Criminal Revision Case has been filed to call for the records relating to the order dated 28.06.2024 in Crl.M.P.No.3110 of 2024 on the file of the learned Judicial Magistrate, Aundipatti, set aside the same and to return the vehicle bearing Reg.No.51-L-2992 to the petitioner herein.

2. The petitioner claims to be the owner of the Ashok Leyland Tipper Lorry bearing Reg.No.TN-51-L-2992. On 01.04.2024, the respondent Police intercepted the vehicle/ Ashok Leyland Tipper Lorry and seized the vehicle as the same was used for transporting of soil illegally without any valid licence or permit and registered a case in Crime No.73 of 2024 for the offences under Sections 379 I.P.C and 21(4) of Mines and Minerals (Development and Regulations) Act, 1957.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Aundipatti, for returning of the said vehicle in Crl.M.P.No. 3110 of 2024 and learned Judicial Magistrate, Aundipatti, vide order dated 28.06.2024, has dismissed the petition. Challenging the same, the above Criminal Revision came to be filed before this Court.



Crl.R.C.(MD).No.719 of 2024

WEB COPY

4. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he is in no way connected with the offences alleged against the petitioner and the vehicle was never involved in any illegal activity and the respondent police without verifying the same has foisted the above false case. He would further submit that the petitioner's family is depending upon the income deprived from the above said vehicle.

5. The learned Government Advocate (Criminal Side) appearing for the respondent police submits that the petitioner is having number of previous cases and the said vehicle is also involved in several cases. He further submits that so far, the confiscation proceedings have not been initiated.

6. This Court considered the rival submissions and also perused the records and the impugned order.

7. In this case, the vehicle was seized on 01.04.2024. The vehicle is keeping in the open place. Further, if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated. Considering the over all circumstances of the case and this Court has issued a direction to the



Crl.R.C.(MD).No.719 of 2024

concerned Authorities to take the action immediately against the vehicles involved in the Mines and Minerals Act, but in this case, till date, the confiscation proceedings have not been initiated, this Court is inclined to allow the 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*** reported in ***2002 (10) SCC 283***.

8. Accordingly, this Criminal Revision Petition is allowed and the order dated 28.06.2024 in Crl.M.P.No.3110 of 2024 on the file of the learned Judicial Magistrate, Aundipatti, is hereby set aside and the learned Judicial Magistrate, Aundipatti, is directed to release the vehicle of the petitioner forthwith on the following conditions :-

(i) the petitioner is directed to deposit a sum of **Rs.75,000/- (Rupees Seventy Five Thousand only)** as non-refundable for the 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 on or before 01.08.2024, otherwise the impugned order shall stand restored;**

(ii) on such deposit the petitioner shall execute a bond to the value of the vehicle mentioned in the insurance



Crl.R.C.(MD).No.719 of 2024

certificate existed on the date of occurrence before the learned Judicial Magistrate, Aundipatti;

(iii) The petitioner shall file an affidavit with specific undertaking that they shall not involve in any illegal mining or any other offence and vehicle also will not be used in the illegal mining or any other offence;

(iv) The photograph of the vehicles is to be taken properly and the petitioner shall produce their vehicles as and when required by the Courts below;

(v) The petitioner shall not alienate the vehicle till the disposal of confiscation proceeding;

(vi) The investigating agency shall initiate the confiscation proceedings within a period of 10 days from the date of receipt of a copy of this order before the Courts below and the Courts below shall dispose the same within a period of six months thereafter; and

(vii) The petitioner shall co-operate with the trial Court to complete the confiscation proceedings.

9. Post the matter on **02.08.2024** for compliance.

29.07.2024

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

tta

(Note : Issue order copy on 29.07.2024)



Crl.R.C.(MD).No.719 of 2024

WEB COPY

To

1. The Judicial Magistrate, Aundipatti.
2. The Inspector of Police,
Rajathani Police Station,
Theni District.
3. The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.R.C.(MD).No.719 of 2024

K.K.RAMAKRISHNAN, J.

tta

CrI.RC(MD)No.719 of 2024

29.07.2024