



Crl.R.C.(MD)No.1296 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

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Suresh

... Petitioner

Vs.

1.The State of TamilNadu,
Represented by the Sub Inspector of Police,
Thirupparangundram Police Station,
Madurai District.
(Crime No.265 of 2021)

2.K.Kumaresan

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order passed in Crl.M.P.No.5348 of 2023 in Crime No.265 of 2021 dated 09.01.2024 on the file of the Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai and set aside the same, and hand over the seized Earth Moving Machine (JCB) to the petitioner on interim custody.



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For Petitioner : Mr.A.Manikandan

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The Criminal Revision Case is directed against the order, dated 09.01.2024, passed in Crl.M.P.No.5348 of 2023 on the file of the Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai dismissing the petition filed under Section 451 of Cr.P.C.

2. The petitioner claims to be the owner of the vehicle Earth Moving Machine (JCB) bearing Registration No.TN-28-AJ-3840. On 12.07.2021, the respondent police seized the vehicle on the ground that the vehicle was used for digging red sand without any valid license or permit, and registered a case in Crime No.265 of 2021 for the offence under Section 379 of IPC r/w Sections 21(1) and 21(4) of the Mines and Minerals (Development & Regulation) Act.



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3. It is not in dispute that the petitioner has approached the Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai by filing a petition for the return of vehicle bearing registration No.TN-28-AJ-3840 in Crl.M.P.No.5348 of 2023, and the learned Judge, Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai vide his order, dated 09.01.2024, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

4. The name of the 2nd respondent has been printed in the cause list. Despite the name has been printed in the cause list, the 2nd respondent has neither entered appearance through a counsel nor in-person.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent.



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6. The learned counsel appearing for the petitioner would submit that the vehicle, viz. Earth Moving Machine (JCB) bearing Reg.No.TN-28-AJ-3840, was purchased by the petitioner from one K.Kumaresan, S/o.Kovilpitchai, who is the 2nd respondent herein and the vehicle is presently owned by the petitioner. The said K.Kumaresan has executed transfer of ownership in favour of the petitioner under Form 29 and Form 30 and the same have also been enclosed, and the said vehicle has no connection whatever with the alleged occurrence, and the vehicle is with the police for the past four years, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Therefore, interim custody may be granted to the petitioner.

7. The learned Additional Public Prosecutor appearing for the 1st respondent would submit that the vehicle was illegally used by the accused for the purpose of digging red sand. He would also submit that the model of the vehicle is of the year 2010, and the value of the vehicle comes to Rs.15,00,000/- (Rupees Fifteen Lakhs only). Further, he would submit that the case property was produced before the trial Court in R.P.R.No.76 of 2021.



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8. In this case, the vehicle was seized on 12.07.2021. The vehicle is kept in the open place from 12.07.2021 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]***.

9. Accordingly, this Criminal Revision Case is allowed, and the order, dated 09.01.2024, passed in Crl.M.P.No.5348 of 2023 by the Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai is hereby set aside and the vehicle Earth Moving Machine (JCB) bearing Reg.No.TN-28-AJ-3840 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 :



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(i) the petitioner is directed to deposit a sum of **Rs.30,000/- (Rupees Thirty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Madurai District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai;

(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 Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai 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 register the vehicle in his name by producing the vehicle before the concerned registering authority, and shall deposit the original



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Registration Certificate of the vehicle before the Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai and the said exercise shall be completed within a period of one month from the date of release of the vehicle;

(v) the petitioner shall not alienate and shall not alternate the physical features of the vehicle till the disposal of the case; and

(vi) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

09.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P.VADAMALAI, J.

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To

- 1.The Special District Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai.
- 2.The Sub Inspector of Police,
Thirupparangundram Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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09.01.2025