



Crl.R.C.(MD)No.1134 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1134 of 2024

Sathishkumar

... Petitioner

Vs.

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

2.K.Vayakattusamy

... Respondents

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in Crl.M.P.No.5290 of 2023 in Crime No.25 of 2022 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 handover the seized Lorry to the petitioner.

For Petitioner : Mr.A.Manikandan



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For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

For R2 : No Appearance

ORDER

The Criminal Revision Case is directed against the order, dated 09.01.2024, passed in Cr.M.P.No.5290 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 viz. Lorry bearing Registration No.TN-76-W-1936. On 15.01.2022, the respondent police seized the vehicle on the ground that the vehicle was used for transporting sand without any valid license or permit, and registered a case in Crime No.25 of 2022 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-76-W-1936 in Crl.M.P.No.5290 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 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 Government Advocate (Criminal Side) appearing for the 1st respondent.



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6. The learned counsel appearing for the petitioner would submit that the vehicle viz. Lorry bearing Registration No.TN-76-W-1936 was purchased by the petitioner from one K.Vayakattusamy, S/o.Kathiresan, who is the 2nd respondent herein and is presently owned by the petitioner. The said K.Vayakattusamy 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 two years and eleven months, 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 Government Advocate (Criminal Side) appearing for the 1st respondent would submit that the vehicle was illegally used by the accused for the purpose of transporting 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.5,00,000/- (Rupees Five Lakhs only). Further, he would submit that the case property was produced before the trial Court in R.P.R.No.14 of 2022.



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8. In this case, the vehicle was seized on 15.01.2022. The vehicle is kept in the open place from 15.01.2022 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. The original RC Book of the vehicle has also been produced by the learned counsel for the petitioner and the same has also been verified by this Court. 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.5290 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 Lorry bearing Registration No.TN-76-W-1936 is ordered to be returned to the petitioner for interim



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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.20,000/- (Rupees Twenty 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.3,00,000/- (Rupees Three 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;



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(iv) the petitioner shall register the vehicle in his name by producing the vehicle before the concerned registering authority, and shall deposit the original 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;

02.01.2025

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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