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Crl.R.C(MD)No.1024 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.12.2024

Pronounced on : 28.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1024 of 2024

Ravi

... Petitioner

Vs.

The State of Tamil Nadu through
The Sub Inspector of Police,
Thuraiyur Police Station,
Trichy District.
(Crime No.478 of 2023)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, 2023, to call for the records and set aside the order dated 03.09.2024 made in Cr.M.P.No.3790 of 2024 in Crl.M.P.Nos.649 & 650 of 2024 on the file of the Judicial Magistrate, Thuraiyur.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)

ORDER

This Criminal Revision Case is directed against the order, dated 03.09.2024 passed in Crl.M.P.No.3790 of 2024 in Crl.M.P.Nos.649 & 650 of 2024 on the file of the learned Judicial Magistrate, Thuraiyur.



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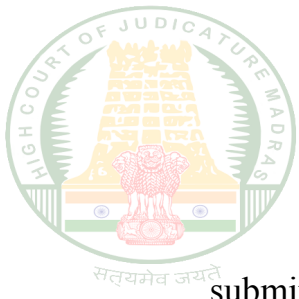


2.The brief facts of the case:

The JCB bearing registration number TN-48-BY-3462 was seized by the respondent police on 05.12.2023 on the ground that the vehicle was used to load the red sand in the vehicle bearing number TN-55-AB-8175 for illegal transportation. A case was registered in Crime No.478 of 2023 U/s. 379 of IPC and U/s.21(1) of MMDR Act. The petitioner has filed the petitions in Crl.M.P.Nos.649 and 650 of 2024 before the learned Judicial Magistrate, Thuraiyur for return of JCB on interim custody and those petitions were allowed with conditions on 06.04.2024 directing the petitioner to deposit the original RC. Since the original RC was already deposited in connection with another case in Crime No.59 of 2022, the petitioner filed the petition in Cr.M.P.No.3790 of 2024 for relaxation of condition of producing the original RC. After hearing both sides, the learned Judicial Magistrate, Thuraiyur dismissed the petition in Cr.M.P.No.3790 of 2024 on 03.09.2024 as the petitioner suppressed the earlier proceeding.

3. Aggrieved by that order, the revision petitioner has come forward with this present criminal revision case.

4. Heard the learned counsel appearing for the revision petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.



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5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the vehicle. The petitioner's JCB is kept idle from 05.12.2023, if the same is continued the value of the vehicle would get diminished. The petitioner has not indulged in taking river sand. He took sand from the patta land of the 3rd accused which is clear from the contents of FIR itself and hence, the petitioner has not violated the earlier condition. The seized JCB is used for livelihood of the petitioner. The RC book is in the same Court and hence, the condition as to production of original may be relaxed since the seized vehicle is kept idle in the open yard by the respondent police from the date of seizure for more than one year. If the vehicle is in open place, due to exposure of sun and rain, the value of the vehicle would get deteriorated and therefore, interim custody of the vehicle may be granted to the petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner's vehicle was seized in connection with the earlier case in Crime No.59 of 2022 upon very same nature of offence. The vehicle was returned on interim custody on the deposit of original RC. Thereafter, again the petitioner has committed the very same nature of offence and suppressed the same as rightly stated by the learned Judicial Magistrate, Thuraiyur. Hence, this Criminal Revision Case may be dismissed.



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7. On hearing and perusal of records, it is clear that the revision petitioner is the owner of the JCB in question and the same was seized by the respondent police on 05.12.2023 alleging that the vehicle was used for illegal loading of red sand to another vehicle. The vehicle was remanded before the concerned Judicial Magistrate Court. Thereafter, the petitioner filed the petition for interim custody of the vehicle and the same was allowed by the Judicial Magistrate Court, Thuraiyur on conditions. Since the petitioner was unable to comply with one of the condition i.e. the production of the original RC Book, as it was already produced in the case registered in Crime No.59 of 2022, the petitioner filed the petition for relaxation of condition of production of original RC. The vehicle was seized and is kept in open place which was not disputed by the respondent police. 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.

8. Of course, the original RC is deposited in another case in the same Court. The case of the petitioner is that he has not indulged in any illegal act by using the vehicle, as he took river sand from the patta land of 3rd accused. Only upon adducing evidence, the commission of offence would be found out. Till then mere keeping the vehicle idle, would not serve any purpose. The Hon'ble Supreme Court issued guidelines in the **Sunderbhai**



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Ambalal Desai case reported in **2003 (1) CTC 175** in respect of return of seized properties. Considering the overall facts and circumstances of the case, this Court is inclined to allow this revision.

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9. Accordingly, this Criminal Revision Case is allowed, and the order, dated 03.09.2024 passed in Crl.M.P.No.3790 of 2024 on the file of the learned Judicial Magistrate, Thuraiyur, is hereby set aside. The condition of production of original RC book in respect of JCB bearing registration number TN-48-BY-3462, is hereby relaxed. All other conditions imposed by the learned Judicial Magistrate, Thuraiyur, in Crl.M.P.Nos.649 and 650 of 2024, dated 06.04.2024 remain unchanged.

28.01.2025

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

To

- 1.The Judicial Magistrate, Thuraiyur.
- 2.The The Sub Inspector of Police,
Thuraiyur Police Station,
Trichy District.
(Crime No.478 of 2023)
- 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
Crl.R.C(MD)No.1024 of 2024

28.01.2025