

In the Court of the Principal District Judge, Madurai.

Present : Tmt.A. Nazeema Banu, B.A., L.L.M.,

Principal District Judge, Madurai.

Thursday, this the 13th day of August -2020.

Crl.M.P.No.3632/2020

Pandiyaraj, S/o.Paramasivam

... Petitioner / Owner of the Property.

Vs

State through the Inspector of Police,

Melur P.S. Cr.No.841/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.S.MP.Amalan, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following.

Order

1. The petition filed u/s. 457 and 451 of Cr.p.c.

2. Heard both sides.

3. This Court has carefully perused the affidavit, which is filed in support of this petition, and the rival submissions put forth by either parties. The case of the petitioner is that a case has been registered against the accused/petitioner under section **379 of IPC r/w. 21(5) of MMDR Act of Melur P.S. Cr.No. 841/2020** and the Petitioner is the owner of the **lorry bearing registration No.TN 69 C 9537** which was seized by the respondent police and the same was kept in the police station in the open space for long time. The vehicle was seized on 1.6.2020. If the vehicle is not returned to the petitioner, it will get damage due to the sun light and rain and hence he filed petition u/s. 457 and 451 of Cr.p.c.

4. The learned Public Prosecutor while advancing his argument has submitted that river sand was transported in the petitioner's lorry by using JCB, without any permit and the vehicle was seized by the respondent police station. He has raised strong objection for returning of property, since the petitioner's vehicles was used in the transportation of sand.

5. A perusal of F.I.R., clearly shows that the accused has committed the theft of river sand and transported in a lorry by using JCB. It is stated on the petitioner's side, that the lorry was used for transportation of materials and he is earning income through the same and if the vehicle is not returned, his day to day living would be seriously affected, and if the vehicle is not returned to the petitioner, it will get damage due to the sun light and rain. The lorry is in police custody for

more than 2 months. Investigation is almost over. There is no use to keep the lorry in custody for a long time. Therefore, this Court has no hesitation to return the lorry to the petitioner on interim custody.

6. In the result, the petition is allowed with following conditions:-

(i) The respondent police is directed to unload the sand and hand over it to the RDO concerned and remand the **lorry bearing registration No.TN 69 C 9537**.

(ii) The **lorry bearing registration No.TN 69 C 9537** is ordered to be returned to the petitioner, on interim custody on production of the original RC book and on payment of cash surety of **Rs.15,000/-** and on his executing a own bond of **Rs.40,000/-** to the satisfaction of Judicial Magistrate, Melur, after obtaining the photo shot of the vehicle;

(iii) The petitioner is directed to give an undertaking to produce the vehicle before the court as and when required by the Court; and

(iv) the petitioner should not dispose of the same and should not effect any material changes without the written permission of the court concerned.

(v) After obtaining the bond from the petitioner, the Judicial Magistrate , Melur is directed to give suitable instruction to the SHO concerned, to hand over the vehicle to the petitioner.

Pronounced by me in Camp Court on the 13th day of August -2020.

Sd/- A.Nazeema Banu

Principal District Judge, Madurai

Copy to

1. The Judicial Magistrate concerned
2. The Inspector of Police, Melur P.S.
3. The Petitioner through his counsel.