

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.3633/2020

Kumar, S/o.Muthaandi

... Petitioner / Owner of the Property.

Vs

State through the Inspector of Police,

Keelavalavu P.S. Cr.No.257/2020

... 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 Keelavalavoo P.S. Cr.No. 257/2020 and the Petitioner is the owner of the Lorries bearing registration No.TN 59 CY 8044 and TN 59 BS 3845 which were seized by the respondent police and the same were kept in the police station in the open space for long time. The vehicles were seized on 25.4.2020. If the vehicles are 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 vehicle, without any permit and the vehicle was seized by the respondent police station. He has raised strong objection for returning of property, stating that the lorry bearing registration No. TN 59 - BS 3845 was ordered to be returned to the petitioner on condition by the Hon'ble Madurai Bench of Madras High Court in W.P.(MD) No.7993/2020 dated 24.7.2020, and in the same order the Hon'ble High Court has given some direction as far as the lorry bearing registration No. TN 59 CY 8044,

since the lorry was involved in a previous case.

5. A perusal of F.I.R., clearly shows that the accused has committed the theft of six units of sand and transported in two lorries. It is stated on the side of the petitioner that the lorries were used for transportation of materials and he is earning income through the same and if the vehicles are not returned, his day to day living would be seriously affected, and it will get damage due to the sun light and rain. The petitioner has earlier moved before the Hon'ble Madurai Bench of Madras High Court for return of the properties for the above said two lorries and the Hon'ble High Court was pleased to return the property for the vehicle bearing registration No. No. TN 59 - BS 3845, and while stating about the return of property for the vehicle bearing registration No. TN 59 CY 8044, the Hon'ble Madurai Bench of Madras High Court, in its order stated that

“ The vehicle bearing registration No. TN 59 CY 8044 will also be produced before the jurisdictional Criminal Court at the earliest. It is for the petitioner to work out his rights before the jurisdictional Criminal Court as regards the said vehicle is concerned.”

6. The lorry bearing registration No. TN 59 - BS 3845 was already ordered to be returned to the petitioner by the Hon'ble Madurai Bench of Madras High Court in W.P.No.7993/2020 dated 24.7.2020. As far as the lorry bearing registration No. TN 59 CY 8044 is concerned, the vehicle is in police custody for more than 3 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 bearing registration No. TN 59 CY 8044 to the petitioner on interim custody.

7. In the result, as far as the vehicle bearing registration No. **TN 59 CY 8044** is concerned, 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 59 CY 8044**.

(ii) The **lorry bearing registration No. TN 59 CY 8044** 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.

8. As far as the vehicle bearing registration No. TN 59 - BS 3845 is concerned, the petition is dismissed as unnecessary, since the Hon'ble High Court has already ordered to return 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, Keelavalavu P.S.
3. The Petitioner through his counsel.