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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON

Crl.R.C.(MD).No.894 of 23023	15.09.2023
Crl.R.C.(MD).Nos.878 and 890 of 23023	17.08.2023
Crl.R.C.(MD).Nos. 470, 551, 671, 756, 749, 870, 909 and 958 of 2023	30.08.2023
Crl.R.C.(MD).No. 1021 of 2023	13.09.2023
Crl.R.C.(MD).Nos. 911 and 1035 of 2023	19.09.2023
Crl.R.C.(MD).No. 1045 of 2023	20.09.2023
Crl.R.C.(MD).No. 1049 of 2023	21.09.2023

PRONOUNCED ON
11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD).Nos.470, 551, 671, 749, 756, 870, 878, 890, 894, 909, 911,
958, 1021, 1035, 1045, 1049 of 2023

Crl.R.C(MD).No.470 of 2023

Ramar

.. Petitioner

Vs.

The State rep.by
The Inspector of Police,
M.Reddiapatti Police Station,
Virudhunagar District.
(Crime No.23 of 2023)

.. Respondent

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Prayer: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to set-aside the impugned order dated 23.10.2023 made in Crl.M.P.No.107 of 2023, on the file of the learned Principal Sessions Judge, Virudhunagar at Srivilliputhur and consequently, to direct the respondents to return the petitioner's vehicle, namely Tipper Lorry bearing registration number TN-67-R-5312 to the petitioner.

Appearance for respective petitioners:-

<i>Crl.R.C.(MD).Nos.</i>	<i>Name of the Counsel</i>
470 of 2023	Mr.S.Vidhya Sagar
551 of 2023	Mr.D.Venkatesh
671 of 2023	Mrs.A.Banumathy
749 of 2023	Mr.N.S.Ramakrishna Dass
756 of 2023	Mr.N.S.Ramakrishna Dass
870 of 2023	Mr.M.R.Sreenivasan
878 of 2023	Mr.N.Anandakumar
890 of 2023	Ms.S.Prabha for Mr.D.Rameshkumar
894 of 2023	Mr.D.Rajaboopathy
909 of 2023	Mr.A.Ramesh
911 of 2023	Mr.B.Muneeswaran
958 of 2023	Mr.J.Madhu
1021 of 2023	Mr.R.J.Karthik
1035 of 2023	Mr.T.Selvakumaran



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1045 of 2023	Mr.P.T.Ramesh Raja
1049 of 2023	Mr.C.Ezhilarasu

For Respondent
in all cases : Mr.T.Senthil Kumar
Additional Public Prosecutor

COMMON ORDER

The above Criminal Revision Cases have been filed by different petitioners challenging the orders passed by the court below, rejecting the plea of the petitioners for return of vehicles, which are alleged to have been involved in illegal sand mining, resultantly seized by the respondent police.

2. In all the above cases, the petitioners are the owners of the vehicles in question. According to the prosecution, the vehicles in question were involved in offences for having transported illegally quarried sand/savudu or caused damage to water bodies and thereupon, the respondent police had registered cases under Sections 379 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, respectively, seized the vehicles in question and kept in the custody of the respondent police. The petitioners, filed petition before the Court below



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under Section 451 Cr.P.C, to return their vehicles. The Court below, dismissed the same on the ground that the petitioners vehicles were involved in the Mines and Minerals (Development and Regulation) Act, 1957 (herein after called as “MMDR Act”) and in some cases, the vehicles were involved in the same offence repeatedly. Hence, they approached this Court, by way of filing these Criminal Revision Cases.

3.The learned counsel for the petitioners made the following submissions:

(i) The petitioners are innocent and false case have been foisted against them. The vehicles in question were also roped in the cases without any transportation of the illegally quarried sand/savudu, etc.,

(ii) The seized vehicles are kept idle in open space exposed to all weather conditions and thereby the value of the vehicles gets diminished and hence, they seeks an interim custody of their vehicles.

(iii)To substantiate the said submissions, the learned counsel for the petitioners placed reliance of the judgment of the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat*



reported in 2003 (1) CTC 175.

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(iv) The petitioners also undertakes to obey any conditions likely to be imposed by this Court.

4. The learned Additional Public Prosecutor submitted that in most of cases, the vehicles were involved in second time. Due to the illegalities committed by them, the entire environment is very much affected. Under Section 21(4-A) of the MMDR Act, specifically authorised the competent Court to complete the confiscation proceedings. In view of the query raised with regard to the competency of the persons, the confiscation proceedings are not invoked in letter and spirit. Now, the Hon'ble Full Bench of this Court has decided the issue affirmatively i.e., investigating officer is entitled to initiate the confiscation proceedings. Taking advantage of the absence of the initiation of the confiscation proceedings, the petitioners have filed the petitions under Section 451 of Cr.P.C., seeking interim custody of their vehicles. Since the investigating agencies are now taking steps to initiate the confiscation proceedings, the learned Additional Public Prosecutor seeks for dismissal of these Criminal Revision Cases.



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5. The learned counsel for the petitioners, by way of reply, submitted that in the above cases, till date, the confiscation proceedings has not been initiated. Therefore, the petitioners are entitled to seeks relief as prayed in the petitions.

6. This Court considered the submissions of the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

7. Mining is the process which is directly involved with the environment. Considering this basic principle enunciated under the Constitution of India under Article 51 A and 48 A, the MMDR Act was enacted and a duty is cast upon the Government to take all possible steps for the conservation and systematic development of minerals in India and for the protection of environment by preventing or controlling any pollution which may be caused by the impending mining operations.



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8. Illegal mining of the sand and other minerals is a menace. The MMDR Act, also provides penal provisions initially without confiscation provision. In addition to the effective Penal Provisions, is available under Section 21 of the MMDR Act, to prevent the illegal mining and transportation of minerals, Tamil Nadu Government brought *Tamil nadu Mines and Minerals of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers, Rules, 2011*.

8.1 Registering the criminal cases will make little impact. It is a common experience that disposal of criminal cases takes long time. The alternative scheme of confiscation proceedings has been provided partly to overcome the adverse consequences resulting in delay for disposal of criminal prosecutions involving confiscation. The confiscation of the vehicle is one of the effective tool for protecting the illegal mining and preserving the environment. Confiscation proceeding is one of the measure to curb menace of the illegal mining. Its aim is to protect the environment as mandated under the constitution.



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8.2. In such circumstances, the parliament incorporated Section 21(4-A) of the Act, with the power of confiscation by way of amendment in the year 2015. The 21(4-A) which is as follows:

21(4-A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.

8.3. The object of the amendment to bring Section 21 A is to ensure the vehicle, which has been used in the illegal transportation, is no longer available for such misuse and to act as deterrent for the offenders and others.

8.4. Criminal prosecution and confiscation proceedings are parallel proceedings and having distinct purpose and object. The same was dealt with by the Hon'ble Supreme Court in the case of *[Divl. Forest Officer v.*



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G.V. Sudhakar Rao, reported in (1985) 4 SCC 573. The relevant portion of

the said judgment is as follows:

“23. Criminal prosecution is distinct from confiscation proceedings. The two proceedings are different and parallel, each having a distinct purpose. The object of confiscation proceeding is to enable speedy and effective adjudication with regard to confiscation of the produce and the means used for committing the offence while the object of the prosecution is to punish the offender. The scheme of the Adhiniyam prescribes an independent procedure for confiscation. The intention of prescribing separate proceedings is to provide a deterrent mechanism and to stop further misuse of the vehicle.”

9. Despite the above stringent provisions available, the menace of illegal mining activities in the state is not effectively controlled and therefore, taking cognizance of the same, the Hon'ble Division Bench of this Court in W.P(MD).No.19936 of 2017 etc., batch issued various directions to the Government in its order dated 29.10.2018. One of the direction is that the Government has to initiate the confiscation proceedings. The said directions are extracted as follows;



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11. *...A complaint has to be made immediately after seizure, preferably, within a period of one week. Thereafter, appropriate application can be made for confiscation, which might include a vehicle, said to have been involved.*

13. *As recorded earlier, illegal mining is carrying on unabatedly under the very nose of the revenue officials, which can be taken as judicial note of this Court with a fond hope that the same can be controlled in future.*

9.1. Despite of the order of the Hon'ble Division Bench, no progress has been made in this State for stopping the illegal mining and transportation and none of the vehicle involved in illegal mining, though seized, has been confiscated.

9.2. Further, this Court in ***Crl.R.C.No.755 of 2021 painfully observed as;***

10. *The times of yore need a wind-up and perception requires a change as everything that has a*



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beginning, has an ending. The mother earth is our heritage, which has been inherited by us from our past generations without much damage and in fact with many developments, to enjoy all its treasures conserving all its goodness and not making any defacement under the guise of development, to be bestowed on our future generations.

Earth provides enough to satisfy every man's needs, but not every man's greed.-Mahatma Gandhi.

While the geologists proclaim that the age of the earth where we live now is 4.543 billion years, the ecologists expound that it is our responsibility to leave this planet in a better shape for the future generations than we found it, rather, to close our eyes on the cruelty being committed to our precious earth and take pride in our search for an alien planet with least infrastructure by spending huge money to survive afresh. In the present generation, the deterioration rate is at a new pace. We see perennial rivers that were once flowing with clean water are now converted into drainage channels to carry effluence.



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10. The illegal mining is in fact increasing due to the lethargic attitude on the part of the law enforcing authorities and the officials concerned. By creating an unintended ambiguity in interpreting the provision of 21 of the Mines and Minerals act, the officials, who are the competent person to initiate the complaint and the confiscation, as mandated under Section 21 of the MMDR Act, have failed to discharge their duties. Now the said issue was also settled by the Hon'ble Full Bench of this Court in in W.P.(MD).No. 14341 of 2022, the same is as follows:

vi. In view of the aforesaid finding of this Court with regard to joint trial by the Special Court, this Court directs the police authorities, who have registered FIR for the offence u/s 379 IPC to file the final report and the person authorised u/s 21 (4), who has seized the vehicle to file, private complaint before the concerned Magistrate Court/Special Court and in case the police officer has seized the vehicle u/s 21 (4) of the MMDR Act and also lodged the FIR u/s 379 IPC, to file final report and private complaint before the concerned Magistrate Court/Special Court, within a period of three months from the date of this order. Upon filing of the final report by the police



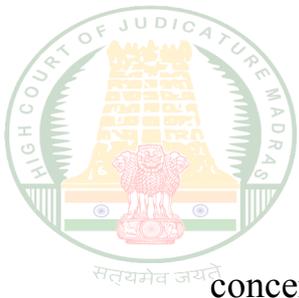
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authorities, the concerned Magistrate is directed to commit the case forthwith to the Special Court having jurisdiction. The Special Courts, which have received the private complaints filed by the person authorised under the MMDR Act shall take up the case along with the case committed in respect of IPC offences, if any, relating to the same offender jointly and shall complete the trial as expeditiously as possible upon filing of private complaint/committal of the case.

10.1.As per the decision of the Hon'ble Full Bench, as stated supra, the investigating officer has power to prefer the private complaint before the learned Special Judge namely the Principal Sessions Judge of each district under Section 21 of the Mines and Minerals Act against the accused. The said investigating officer has also got power to submit application to initiate the confiscation proceedings against the vehicles involved in the illegal mining activity.

10.2. From the reading of Section 21(4-A) of the MMDR Act, it is clear that the duty is cast upon the investigating officer or the officials



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concerned, who seized the vehicle, to initiate the confiscation proceedings before the learned Principal District and Sessions Judge of the District concerned. In spite of the specific directions issued by the Hon'ble Division Bench, timely action has not been taken to confiscate the vehicle involved in illegal transportation of the mines, by implementating of Section 21 (4-A) of the Act. To ascertain the said fact, this Court directed the Director General of Police to furnish details of the number of cases registered and the number of the confiscation proceedings initiated. Pursuant to the said direction, The Director General of Police submitted a detailed report and the material portion of the report reads as follows:

Annexure- TOTAL CASES

<i>Sl. No</i>	<i>Year</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
1	Number of cases registered under Mines and Minerals Act	3505	2892	7016	10635	9684	10644	7388	4662	2679
2	Number of vehicles involved and seized under Mines and Minerals Act	3737	3162	7673	11344	10772	11535	7971	5160	2188
3	Number of cases in which confiscation proceedings initiated against the vehicle involved under MM Act	27	25	192	265	473	552	368	239	77
4.	In how many cases, confiscation proceedings are pending	31	39	235	298	677	758	440	284	113
5.	In how many cases, confiscation proceedings were completed	11	6	32	69	82	104	45	32	4



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10.3. From the above data, it is apparent that, there is total non implementation of the provision of the Act namely, confiscation of the vehicle. Unfortunately, the confiscation proceeding has not been properly initiated. From the data, it is seen that from 2015 to May 2023, totally 59,105 cases were registered and 63,542 number of vehicles involved in the transportation of the illegal minerals were seized with sand and minerals and only against 2,218 vehicles, confiscation proceedings were initiated and confiscation proceedings were completed only for 385 cases.

10.4. The registration of the case Under Section 379 of IPC and initiation of the criminal proceedings under section 21 of the MMDR Act do not meet the present day requirements to prevent the menace of illegal mining. As stated above, totally 59,105 number of cases were registered and pursuant, 63,542 number of vehicles were seized with minerals. In most of the cases, the accused persons were repeatedly involved in the same offence. The same vehicles are indulging again and again in the illegal mining. To curb the menace of the illegal mining and to protect the environment, as mandated under the constitution and under the MMDR Act this Court is



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duty bound to analyze the reason for the same.

10.5. On analyzing the previous history from the data furnished by the Director General of Police, it appears that existing law has not been implemented by the authorities letter and spirit, which resulted in the above rampant increase of the case of illegal mining and transportation and damages to the environment.

10.6. According to the Hon'ble Supreme Court, the infringement of law is treated as worse state of affairs and held that it is worse than not enacting a law at all. The relevant portion of the judgment of the Hon'ble Supreme Court, in the case of ***Indian Council For Enviro-Legal Action v. Union of India, (1996) 5 SCC 281*** is extracted as under:

25..... If the mere enactment of the laws relating to the protection of environment was to ensure a clean and pollution-free environment, then India would, perhaps, be the least polluted country in the world. But, this is not so. There are stated to be over 200 Central and State Statutes which have at least some concern with environment protection,



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either directly or indirectly. The plethora of such enactments has, unfortunately, not resulted in preventing environmental degradation which, on the contrary, has increased over the years. Enactment of a law, relating to protection of environment, usually provides for what activity can or cannot be done by people. If the people were to voluntarily respect such a law, and abide by it, then it would result in law being able to achieve the object for which it was enacted. Where, however, there is a conflict between the provision of law and personal interest, then it often happens that self-discipline and respect for law disappears.

26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. ..



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....The primary effort of the court, while dealing with the environmental-related issues, is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. The courts, in a way, act as the guardian of the people's fundamental rights but in regard to many technical matters, the courts may not be fully equipped. Perforce, it has to rely on outside agencies for reports and recommendations whereupon orders have been passed from time to time. Even though, it is not the function of the court to see the day-to-day enforcement of the law, that being the function of the Executive, but because of the non-functioning of the enforcement agencies, the courts as of necessity have had to pass orders directing the enforcement agencies to implement the law. ..

42.The High Courts would be in a better position to ascertain facts and to ensure and examine the implementation of the anti-pollution laws where the allegations relate to the spreading of pollution or non-compliance of other legal provisions leading to the infringement of the anti-pollution laws.



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For a more effective control and monitoring of such laws, the High Courts have to shoulder greater responsibilities in tackling such issues which arise or pertain to the geographical areas within their respective States....

10.7. The Hon'ble Supreme Court, in the above case, has also reminded the duty of the High Court to control the degradation of the environment and to stop illegal activities with great responsibilities to ensure the proper implementation of the environmental laws, as per the provision of the Act.

10.8. As per the above data, totally 63,542 vehicles were involved in the illegal mining and transportation of the minerals. Only against 2218 vehicles, confiscation proceedings were initiated and confiscation proceedings were completed only in 385 cases. Hence, this Court feels that this case is an extraordinary situation and the same is required to be dealt with the special measure by adopting the law laid down by the Hon'ble Supreme Court in **2012(1)SCC10[Prithipal Singh v. State of Punjab]**:



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50. Extraordinary situations demand extraordinary remedies. While dealing with an unprecedented case, the Court has to innovate the law and may also pass an unconventional order keeping in mind that an extraordinary fact situation requires extraordinary measures. In B.P. Achala Anand v. S. Appi Reddy [(2005) 3 SCC 313 : this Court observed : (SCC p. 318, para 1)

“1. Unusual fact situation posing issues for resolution is an opportunity for innovation. Law, as administered by courts, transforms into justice.”

Thus, it is evident that while deciding the case, the court has to bear in mind the peculiar facts, if so exist, in a given case.

11. Therefore, the special measure, in the present situation, is to speed up the initiation and completion of the confiscation proceedings. As per the directions of the Hon'ble Apex Court, as stated supra, reported in **1996 5 SCC 281**, this Court is necessitated to pass the following directions for the effective implementation of the confiscation proceedings in addition to allowing the revision with the conditions stated in the conclusion



paragraph:
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11.1.As mandated Under section 21 (4-A) of the MMDR Act, the Director General of Police, hereby is directed to issue the suitable instruction to all the investigating officer of the pending cases of 63,542 to file a petition before the learned Principal District and Sessions Judge of each Districts, to initiate the confiscation proceedings of the vehicles seized for the offence of illegal mining and transportation, within a period of 30 days from the date of receipt of a copy of this order.

11.2.The Director General of Police is further directed to issue suitable instructions to all the investigating officers, in future to initiate the confiscation proceedings of the vehicles before the learned Principal District and Sessions Judge of the District concerned, within a period of 30 days from the date of registration of FIR.



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11.3. The learned Principal District and Session Judge, upon receiving such application, shall treat the petition as a criminal miscellaneous petition, assign number and dispose the confiscation proceedings expeditiously not later than six months from the date of the petition.

12. Suggestion to the Government

Section 21 (4-A) is incorporated in the year 2015. To implement the said provisions, the Government is duty bound to constitute new Court to conduct the criminal prosecution and confiscation proceedings. Both are essential to avoid the rampant increase of the cases of the illegal mining and transportation and to prevent the spontaneous damages to the environment. As stated above, from the year 2015 to May 2023, total number of cases registered for illegal mining and transportation is 59,105 and 63,542 number of vehicles are seized. It is the timely requirement to complete the trial and confiscation proceedings. Now, the learned Principal District and Session Judge, of the District concerned, assumes the jurisdiction. Already, the Principal District and Sessions Court is accumulated with the number of



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cases apart from the administrative work. It is not only the duty of the Government to bring the Act to curb the illegal mining and transportation and the Government is also duty bound to implement the provisions. Hence, for an effective implementation of the provisions of the Act, an earnest effort is required from all the stake holders to constitute special courts to deal with the cases filed under Mines and Minerals Act. Hence this court suggests the Government to set up special courts in all districts to deal with the cases filed under the Mines and Minerals Act.

13.It is a well settled principle that when the confiscation proceeding is initiated, the petition under Section 451 of Cr.P.C., to seek interim custody is not maintainable. The same was fortified in the following judgments:

(i) ***State of M.P. v. Uday Singh*** reported in 2020 12 SCC 733, held as follows:

23.Subsequently in 2004 in Sujit Kumar Rana [State of W.B.v. Sujit Kumar Rana, (2004) 4 SCC 129 : 2004 SCC (Cri) 984] another two-Judge Bench of this Court dealt with the applicability of Section



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482 CrPC for quashing of proceedings for confiscation of forest produce under the provisions of the Forest Act, 1927, as amended in relation to the State amendments to inter alia, confer a power of seizure and confiscation and to enact a bar of jurisdiction of other courts and tribunals notwithstanding anything contained in CrPC. This Court held : (SCC p. 139, para 31)

“31. ... Once, however, a confiscation proceeding is initiated; in terms of Section 59-G of the Act, the jurisdiction of the criminal court in this behalf stands excluded. The criminal court although indisputably has the jurisdiction to deal with the property which is the subject-matter of offence in terms of the provisions of the Code of Criminal Procedure but once a confiscation proceeding is initiated, the said power cannot be exercised by the Magistrate.”

Once the criminal court had no power to deal with the property seized under the Act, the High Court was held to have no jurisdiction under Section 482 CrPC to quash proceedings for confiscation of forest produce.

In *Crl.R.C.No.755 of 2021*, after considering the provisions and



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the impact of the illegal mining, this Court has categorically held that the provision of Section 451 of Cr.P.C., is not applicable, when the confiscation proceedings is initiated under Section 21(4-A) of the MMDR Act. The relevant portion of the order is as follows:

19. It is seen that in the instant cases, the data produced by the learned Public Prosecutor shows that in all the cases, confiscation proceedings had already been initiated. Therefore, this court is of the view that in the interest of justice, it would suffice if a direction is given for conclusion of the confiscation proceedings within a time frame. Accordingly, while rejecting the plea for the release of the vehicles in question, it is hereby ordered that the confiscation proceedings shall be concluded within a period of six months from the date of receipt of a copy of this order and the petitioners/owners of the vehicles shall co-operate for conclusion of the confiscation proceedings without protracting any longer.

From the law laid down by the Hon'ble Supreme Court in **2020 12 SCC 733** as well as by this Court in **Crl.R.C.No.755 of 2021**, it is clear that in the



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absence of the initiation of the confiscation proceedings, the petition under Section 451 Cr.P.C., to seek interim custody of the vehicle, etc., is maintainable. In case, confiscation proceedings has been initiated the petition under Section 451 Cr.P.C., is not maintainable.

14. In all the above cases, the investigating agency as well as the competent authority under the MMDR Act, has not initiated confiscation proceedings against the vehicle involved in illegal transportation of sand and other minerals. Hence, this Court is inclined to allow these criminal revision cases with the above directions. Accordingly, the above revisions are allowed with the following conditions are imposed on the petitioners to release their respective vehicles:

14.1. This Court hereby directs to release the vehicle, the petitioners shall a bond to the value of the vehicle mentioned in the insurance certificate existed on the date of occurrence and the petitioners shall deposit a sum of Rs.25,000/- to the credit of the respective crime numbers and on such deposit, the Courts below shall redeposit the same in any one of the



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nationalized bank in the interest bearing account.

(ii) The petitioner shall file an affidavit with specific undertaking that they shall not involve in any illegal mining or any other offence and vehicle also will not be used in the illegal mining or any other offence.

(iii) The photograph of the vehicles is to be taken properly and the petitioners shall produce their vehicles as and when required by the Courts below.

(iv) The petitioners shall deposit a sum of Rs.15,000/- within a period of two weeks from the date of receipt of a copy of this order, to the account to be opened by the Registrar (Judicial), Madurai Bench of Madras High Court, Madurai, in the Indian Bank, High Court Branch, Madurai, as indicated in the Hon'ble Division Bench in W.P.(MD).No.23683 of 2023.

(v) The petitioner shall not alienate the vehicle till the disposal of confiscation proceeding

(vi) The investigating agency shall initiate the confiscation proceedings within a period of 10 days from the date of receipt of a copy of this order before the Courts below and the Courts below shall dispose the same within a period of six months thereafter.



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(vii) The petitioner shall co-operate with the trial Court to complete the confiscation proceedings.

15. List this case on 30.11.2023, for "reporting compliance".

11.10.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn

Note: Issue order Copy on 13.10.2023

To

- 1.The Director General of Police,
Chennai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

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K.K.RAMAKRISHNAN, J.

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