

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

THE HON'BLE MR.JUSTICE S. MANIKUMAR

Criminal Revision Petition No.465 of 2014
M.P.No.1 of 2014

John Paul

.. Petitioner / Accused

Vs.

1. The State,
rep., by the Inspector of Police,
P.E.Wing, Villupuram Police Station.

2. R.Jeyapaul ... Respondents/ Complainant

Prayer:- Petition filed under Section 397 r/w. 401 of Cr.P.C,
praying to set aside the order dated 27.12.2013, made in
C.M.P.No.3424 of 2013, on the file of the learned District Munsif
cum Judicial Magistrate at Vanur.

For Petitioner : Mr.P.Arularasu

For 1st Respondent : Mr.P.Govindarajan,
Addl. Public Prosecutor

For 2nd Respondent : Mr.Adinarayana Rao

सत्यमेव जयते
O R D E R

Criminal Revision Case is filed against the order, dated
27.12.2013, made in Crl.M.P.No.3424 of 2013, on the file of the
learned District Munsif cum Judicial Magistrate at Vanur,
directing interim custody of the vehicle, to be given to
Mr.R.Jeyapaul, the 2nd respondent in this revision case.

2. Material on record discloses that the the vehicle,
"Toyota Innova", bearing Registration No.TN 10 AA 4199, has been
seized by the Inspector of Police, Villupuram Police Station, in
Cr.No.334 of 2013, under the Tamil Nadu Prohibition Act, 1937.

C.M.P.No.1837 of 2013, has been filed by Mr.John Paul/revision petitioner, under Section 457 Cr.P.C., to produce the said vehicle, from the Police custody. Before the lower Court, it has been contended that by Mr.John Paul, that he was authorised by R.Jeyapaul, the 2nd respondent herein, to sign all the legal proceedings on behalf of Mr.R.Jeyapaul, 2nd respondent herein. After considering the decision of the Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat* reported in AIR 2003 SC 638 and this Court in *Saravanan v. State*, rep., by the Inspector of Police, Magaral Police Station, Kancheepuram District reported in 2011 (2) TNLJ 440 (Criminal), the learned Judicial Magistrate, Vanur, has directed interim custody of the vehicle to Mr.John Paul, imposing conditions to establish the ownership of the vehicle, by producing necessary Original RC Book and other relevant records. In addition to the above direction, the petitioner has also been directed to execute a bond for a sum of Rs.3,00,000/- to the satisfaction of the learned Judicial Magistrate No.II, Kancheepuram, apart from other usual condition of restraining the petitioner not to alienate the vehicle, in any manner and to produce the vehicle, as and when, required by the trial Court. The Inspector of Police, PEW, Villupuram, has been directed to produce the vehicle, before the lower Court, on or before 23.07.2013.

3. Subsequently, Mr.R.Jeyapaul, has filed an application in C.M.P.No.3424 of 2013, disputing the Power of Attorney, on the basis of which, Mr.John Paul, revision petitioner had obtained interim custody. According to Mr.R.Jeyapaul, 2nd respondent herein, he is the registered owner of the vehicle. Upon perusal of the details, contained in the certificate of registration, issued by the Motor Vehicles Department, wherein, the name of Mr.R.Jeyapaul, has been shown as owner of the vehicle, the learned District Munsif-cum-Judicial Magistrate Court, Vanur, by order, dated 27.12.2013, has directed the alleged Power of Attorney to produce the vehicle, before the lower Court on 03.01.2014 and when the vehicle is produced, ordered interim custody of the same, to Mr.R.Jeyapaul, 2nd respondent herein, subject to the following conditions,

"(1) The petitioner shall execute a bond for a sum of Rs.Fifteen lakh with one independent surety for the like sum.

(2) The case property must not be sold, alter, alienate and encumber or transferred.

(3) Original R.C. Book of the vehicle to be retained in Court.

(4) The case property must be produced before the Court whenever required.

(5) The colour or spares of the case property must not be changed."

4. Being aggrieved by the order, directing interim custody, Mr. John Paul, has filed the present revision case. Based on the documents, enclosed in the typed set of papers, he has contended that Toyota Innova vehicle, bearing Registration No. TN 10 AA 4199, is owned by M/s. Arjuna Engineering Ltd., and that he is the authorised representative of the said Company. He has further submitted that the said vehicle has been purchased in the name of one of the Directors, viz., Mr. R. Jeyapaul, 2nd respondent herein, since the other Directors of the Company are Foreign Nationals. To support of the above contention, he has invited the attention of this Court to the Board Resolution of the Company, Invoices and other details.

5. Per contra, Mr. P. Govindarajan, learned Additional Public Prosecutor submitted that though there was a direction to produce the vehicle on or before 03.01.2014, before the lower Court, the said direction has not been complied with, by the petitioner and hence, prayed for dismissal of the revision.

6. Heard Mr. Adinarayana Rao, learned counsel appearing for the 2nd respondent and perused the materials available on record.

7. Section 451 of the Criminal Procedure Code, deals with the Order for custody and disposal of property pending trial in certain cases and the same is extracted hereunder:

"When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation:- For the purposes of this section, "property" includes-

- (a) property of any kind or document which is produced before the Court or which is in its custody,
- (b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence."

8. Section 457 of the Criminal Procedure Code, deals with the procedure by Police upon seizure of property and the said section reads as follows:

"(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions

of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation."

9. Though the petitioner has contended that he is the authorised representative of the company, which is the owner of the vehicle and the vehicle has been purchased from company funds, the fact remains that as per the Certificate of Registration, Mr.R.Jeyapaul, 2nd respondent herein, is shown as the owner of the vehicle.

10. It is to be seen that earlier, when the petitioner sought for interim custody of the vehicle, he has filed C.M.P.No.1837 of 2013, stating that he is the authorised representative of Mr.R.Jeyapaul, ie., his power of attorney. But the latter has disputed the said fact. Now in the present revision case, he has stated that he is the authorised representative of M/s.Arjuna Engineering Ltd. Cause title in C.M.P.No.1837 of 2013 also does not disclose that the said petition has been filed on behalf of the Company. If the vehicle was purchased from out of the company funds, in the name of one of the Directors, as contended, he cannot be the power of attorney of Mr.R.Jeyapaul. Petitioner cannot take different stand, one before the lower Court in C.M.P.No.1837 of 2013 and in the present revision case. If the ownership is disputed on the basis of the documents, filed along with this revision case, appropriate orders can always be passed by the lower Court, on the conclusion of trial, under Section 452 Cr.P.C. Interim custody or proper custody can be ordered to the person, who has been in possession of the vehicle, till it was seized. Court is concerned only about the interim custody of the vehicle, subject to reasonable conditions, to be imposed. It cannot be disputed that the vehicle was in the custody of Mr.R.Jeyapaul and used by him, till the seizure was effected on 09.07.2013, by the Police and that the inmates of the vehicle have also stated that Mr.R.Jeyapaul, is the registered owner of the

vehicle. Interim custody has been ordered to him, subject to the abovesaid conditions.

11. Therefore, while sustaining the order, dated 27.12.2013, made in Crl.M.P.No.3424 of 2013, passed by the learned District Munsif cum Judicial Magistrate at Vanur, this Court further directs the 2nd respondent herein, to produce the vehicle, before the Court, on the 1st working day of every month. The Inspector of Police, PEW, Villupuram, is directed to file a final report, within a period of one month, from today. Upon filing of such report, the learned District Munsif cum Judicial Magistrate at Vanur, is directed to dispose of Cr.No.334 of 2013, within a period of two months thereafter.

12. In the result, the Criminal Revision Case is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

skm

To

1.The Inspector of Police,
P.E.Wing, Villupuram Police Station.

2.The District Munsif cum Judicial Magistrate,
Vanur.

3. The Public Prosecutor
High Court, Madras

1 cc to Mr. Adinarayana Rao, advocate, sr. 7353

1 cc to Mr.P. Arularasu, Advocate, sr. 7517

Criminal Revision Case No.465 of 2014

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