

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2015

Coram

The Honourable Mr. Justice B. Rajendran

CrI. R.C. Nos. 766 and 1197 of 2014 &
M.P.No.1 of 2014 in CrI.R.C.No.766 of 2014

Malaisamy ...Petitioner in CrI.R.C.No.766/2014
&2ndrespondent in CrI.R.C.No.1197/14

Versus

R.Karthikeyan ...1st respondent in CrI.R.C.No.766/2014
&Petitioner in CrI.R.C.No.1197/2014

K.G.Ashok Kumar ...2nd Respondent in CrI.R.C.No.766/14

Parameswaran ...3rd Respondent in CrI.R.C.No.766/14

State rep. by
The Inspector of Police
B6 (Crime) Peelamedu Police Station
Coimbatore
Cr.No.1478/2013

... 4th Respondent in CrI.R.C.No.766/14
&1stRespondent inCrI.R.C.No.1197/14

Criminal Revision Cases are filed under Sections 397 r/w 401 Cr.P.C, against the orders passed in CrI.M.P.Nos.8325 and 7805 of 2013 by the learned Judicial Magistrate No.VI, Coimbatore, dated 22.04.2014 and 13.11.2013 respectively.

For petitioner : Mr.S.Sugendran

in CrI.R.C.No.766/14&

for R.2 in CrI.R.C.No.1197/2014

For 1st respondent : Mr.Thangavadhana Balakrishnan

in CrI.R.C.No.766/14&

for petitioner in CrI.R.C.No.1197/2014

For R.4 in CrI.R.C.No.766/14& : Mr.T.Arul,

for R.1 in CrI.R.C.No.1197/2014 Government Advocate (CrI.Side)

For R2 & R3 in CrI.R.C.No.706/14

COMMON ORDER

These Criminal Revision Cases are filed against the orders passed in Crl.M.P.Nos.8325 and 7805 of 2013 by the learned Judicial Magistrate No.VI, Coimbatore, dated 22.04.2014 and 13.11.2013.

2. The case of the petitioner in Crl.R.C.No.766 of 2014 viz., Malaisamy is that he filed a petition in C.M.P.No.7805 of 2013 before the learned Judicial Magistrate No.VI, Coimbatore, without impleading Karthikeyan, seeking interim custody of the CNT VTL machinery. On the basis of the report filed by the Investigation Officer, Malaisamy was granted the interim custody of the machinery by order, dated 13.11.2013. Subsequent to which, Karthikeyan, who is the petitioner in Crl.R.C.No.1197 of 2014, has filed a petition in C.M.P.No.8325 of 2013 before the learned Judicial Magistrate No.VI, Coimbatore, alleging that he is the subsequent purchaser of the machinery in question and that the machinery, which was in his possession was seized from him. The said Karthikeyan also filed Crl.R.C.No.1197 of 2014 challenging the order dated 13.11.2013 passed in C.M.P.No.7805 of 2013. The learned Judicial Magistrate No.VI, Coimbatore, by order dated 22.04.2014, on hearing the submission of the Government Advocate to the effect that since there is a dispute regarding the ownership of the machinery, it can be decided only at the time of deciding the case and reverted the order passed in C.M.P.No.7805 of 2013, dated 13.11.2013, and directed the petitioner in Crl.R.C.No.766 of 2014 to return back the machineries, which was granted interim custody to him in C.M.P.No.7805 of 2013, dated 13.11.2013. Aggrieved against the order dated 22.04.2014, the Crl.R.C.No.766 of 2014 is filed by Malaisamy.

3. Heard both sides. By consent, both Criminal Revision Cases are taken up for final disposal.

4. It is needless to point out that even though, the petitioner in Crl.R.C.No.766 of 2014, viz., Malaisamy, knows very well about the rival claimant, viz., Karthikeyan, who claims himself to be the subsequent purchaser, has not been impleaded as a party in C.M.P.No.7805 of 2013 seeking interim custody of the CNT VTL machinery. Further, the Court below called for report from the Investigation Officer and the Investigation Officer in his report has given no objection and only on that ground, the Court below ordered for return of machinery to Malaisamy. Karthikeyan is the subsequent purchaser and he was in possession of the machinery. He came to know about the order dated 13.11.2013 only when the machinery, which was in his possession was seized from him. Thereafter, the said Karthikeyan filed C.M.P.No.8325 of 2013, by adding Malaisamy as a party, seeking repossession of the machinery. The learned Judicial Magistrate No.VI, Coimbatore, by order dated 22.04.2014, on hearing the submission of the Government Advocate to the effect that since there is a dispute regarding the ownership of the machinery, which can be decided only at the time of deciding the case and reverted the order passed in C.M.P.No.7805 of 2013, dated 13.11.2013 and directed the petitioner in Crl.R.C.No.766 of 2014 to return back the machinery, which was granted interim custody to him in C.M.P.No.7805 of 2013, dated 13.11.2013. In my considered opinion, though, the Court below has ordered repossession of the machinery, since, an opportunity has to be given to both parties, the matters have to be

remitted back to the Magistrate concerned, to give a fresh notice and to get a detailed report from the Investigation Officer and thereafter, decide the matters afresh.

5. In the result, these Criminal Revision Cases are allowed. The orders dated 22.04.2014 and 13.11.2013 passed in C.M.P.Nos. 8325 and 7805 of 2013 on the file of the learned Judicial Magistrate No.VI, Coimbatore, are set aside and the matters are remitted back to the Judicial Magistrate No.VI, Coimbatore, to give a fresh notice for giving an opportunity of hearing to both parties and get a detailed report from the Investigation Officer as to from where the property was seized and thereafter, shall decide the matter afresh, on merits and in accordance with law, as expeditiously as possible, without being influenced by any of the observations made in these revisions and to independently arrive at a conclusion. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.VI,
Coimbatore.

2.-do-Thro Chief Judicial Magistrate, Coimbatore.

3.The Inspector of Police
B6 (Crime) Peelamedu Police Station
Coimbatore.

4.The Public Prosecutor, High Court, Madras.

2 cc to Mr.Thangavadhana Balakrishnan , Advocate Sr.No.27562,27563

1 cc to Mr.S.Sugendran , Advocate Sr.No.27975

CrI. R.C. Nos. 766 and 1197 of 2014

scd(co)

pmk.26.6.2015