

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-10-2015

Coram

THE HON'BLE MR.JUSTICE B. RAJENDRAN

Criminal Revision Case No.1099 of 2015

E.Gobi

.. Petitioner/Petitioner

Versus

State by Inspector of Police
Karumanthurai Police Station
Salem District.

Dy.Superintendent of Police, Attur. .. Respondent/Respondent

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the order dated 04.09.2015 passed in CrI.M.P. No. 3564 of 2015 on the file of the learned Judicial Magistrate No.II, Attur.

For Petitioner : Mr. R.Asaithambi

For Respondent : Mr. V.Arul
Government Advocate
(Criminal Side)

ORDER

The petitioner has filed the above Criminal Revision Case aggrieved against the order dated 04.09.2015 passed in CrI.M.P. No. 3564 of 2015 on the file of the learned Judicial Magistrate No.II, Attur.

2. The petitioner is the owner of the JCB vehicle bearing Registration No. TN-28-AF-7185-JCB. The respondent police registered a case in Cr.No.86 of 2015 for the offences under Sections 294(b), 341, 447 and 506 (ii) IPC r/w. Section 30 of TNPPD Act and seized the vehicle on 27.08.2015. The petitioner is not arrayed as an accused in that case. The petitioner has filed a petition under Section 451 of Cr.P.C. in CrI.M.P. No. 3564 of 2015 before the Trial Court seeking for return of the vehicle. The Trial Court, by order dated 04.09.2015 allowed the said petition. Alleging that the condition Nos. 3(1) and (5) imposed by the Trial Court, by order dated 04.09.2015, while ordering return of the vehicle are onerous and seeking modification of the same, the petitioner/owner of the vehicle has filed the above Criminal Revision Case.

3. Today, when the matter is taken up for admission, Mr.R.Asaithambi, learned counsel appearing for the petitioner submitted that the vehicle has been purchased by him in second hand for Rs.7,00,000/-. The Lower Court has ordered to return the vehicle to the original owner of the property, viz., petitioner, but, while

ordering return of the vehicle, conditions were imposed by the Lower Court, of which, according to the petitioner the condition No.3(1), viz., The petitioner shall execute a bond for Rs.20,00,000/- with two sureties each for the like sum with the xerox copy of the document of title deed for the same value of the sureties should be submitted to the Court and condition No.3(5) viz., The vehicle should be produced before the Court on the first working day of every month, are onerous one and though, return of the vehicle was ordered, it is in no way fruitful to the petitioner and it will affect his business as he is residing in Karumanthurai, he finds it difficult to bring the vehicle down to the Court once in a month and hence, seeking modification of the said conditions, the petitioner has filed the Criminal Revision Case.

4. On the above submission, this Court heard Mr.V.Arul, learned Government Advocate, who submitted that if the vehicle is not produced every month, there is every likelihood of tampering with the same and hence, the conditions imposed by the Lower Court while ordering for return of the vehicle is correct, however, he leaves it to the discretion of the Court.

5. I heard the counsel for both sides. This Criminal Revision Case is taken up for final disposal at the stage of admission itself.

6. The Lower Court has ordered to return the vehicle to the original owner of the property, viz., petitioner, but, while ordering return of the vehicle, conditions were imposed by the Lower Court, of which, according to the petitioner the condition No.3(1), viz., The petitioner shall execute a bond for Rs.20,00,000/- with two sureties each for the like sum with the xerox copy of the document of title deed for the same value of the sureties should be submitted to the Court and condition No.3(5) viz., The vehicle should be produced before the Court on the first working day of every month, are onerous and hence, seeking to modify the said conditions imposed by the Lower Court the petitioner has filed this revision. The petitioner alleges that he finds it difficult to execute a bond for Rs.20,00,000/- with two sureties each for the likesum with the xerox copy of the document of title deed for the same value of the sureties. As far as condition No.3(5) is concerned, it will affect his business as he is residing in Karumanthurai, a hill area and he finds it difficult to bring the vehicle down to the Court once in a month.

7. Insofar as condition No.3(1) is concerned, the grievance expressed by the petitioner appears to be reasonable and convincing. Taking into consideration of the fact that insofar as condition No.3(5) is concerned, the distance between the petitioner's residence and the Court is only 30 k.m. and therefore, the said condition directing the petitioner to produce the vehicle before the Court on the first working day of every month needs no interference as there is chance of tampering with the same. However, this Court is inclined to modify the condition No. 3(1) alone imposed by the Lower Court. Accordingly, the condition No. 3(1) imposed by the Lower Court by impugned order dated 04.09.2015 stands modified as follows:-

"3(1) The petitioner shall execute a bond for Rs.10,00,000/- (Rupees Ten Lakhs only) with two sureties each for Rs.3,00,000/- with the xerox copy of the document of title deed for the same value of the sureties should be submitted to the Court".

Insofar as the other conditions imposed by the Lower Court by impugned order dated 04.09.2015 are concerned, the same stands confirmed.

8. Subject to the above modification, this Criminal Revision Case is partly allowed.

paa

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector of Police
Karumanthurai Police Station
Salem District.
2. The Deputy Superintendent of Police,
Attur.
3. The Judicial Magistrate No.II,
Attur.
4. The Chief Judicial Magistrate,
Salem
5. The Public Prosecutor,
High Court, Madras

+1 C.C. To MR.R.Asaithambi, Advocate in SR.NO.56496

Cr1.R.C.No.1099 of 2015

MG(CO)
sd : 27/10/2015