

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.6.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.284 of 2015

S.Veerakumar

.. Petitioner

Versus

1. State by
Inspector of Police
R-6 Kumaran Nagar Police Station
Chennai.

2. Sundaram, L

3. B.Latha

.. Respondents

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 06.2.2015 passed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai in C.M.P.No.581 of 2015 in Crime No.3770 of 2012.

For Petitioner : Mr.A.Thirumaran

For R1 : Mr.T.Arul
Government Advocate (Crl.side)

For R2 and R3 : No Appearance

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 06.2.2015 passed by the Court below in rejecting the application filed by the petitioner under Section 451 of Cr.P.C. for return of property, namely, TVS Scooty Pep Plus bearing Registration No.TN 09 BT 5182.

2. According to the prosecution, on 03.11.2012, when the third respondent / defacto complainant left her job and returned back to her home, she found that her house was break open and jewels and cash were stolen. Therefore, based on the complaint given by her, a case was registered in Cr.No.3770/2012 and after investigation, second respondent was arrested and based on the confession statement given by him that he had purchased the vehicle in question in and out of the sale proceeds of the crime in Cr. No.3770/2012, the vehicle was seized.

3. The case of the petitioner in brief is as follows:

According to the petitioner, he is running a finance company under the name and style of "Sri Mahalakshmi Finance". The second respondent purchased the two wheeler bearing Registration No.TN-09 BT 5182 under Hire Purchase from the petitioner. But the second respondent failed to repay the loan amount of Rs.37,000/-. While so, the first respondent seized the vehicle from the second respondent in connection with the case in Crime No.3770/2012 dated 03.11.2012 and was kept under illegal detention in the first respondent police station. Since the second respondent committed default in payment of money, the petitioner filed a petition before the Court below under Section 451 of the Criminal Procedure Code seeking interim custody of the vehicle. The Court below dismissed the said petition on the ground that the ownership of the vehicle in question can only be determined during trial.

4. The learned counsel for the petitioner submitted that the Court below has mechanically passed the order stating that the ownership of the vehicle in question can only be determined during the trial. The learned counsel for the petitioner further submitted that the trial is not in connection with the ownership of the vehicle and it is only to find out as to whether the accused have committed the offence as charged. It is the submission of the learned counsel for the petitioner that the petitioner is the owner of the vehicle in question as seen in the endorsement in the RC Book and the Court below, without considering the same, has dismissed the petition. In any event, after seizure, the vehicle is parked in the police station in the open place and it is exposed to sun, rain and dust. If the custody of the vehicle is not handed over to the petitioner, the value of the vehicle will be diminished. Therefore, the learned counsel appearing for the petitioner prayed this Court to allow this Criminal Revision Petition.

5. On the other hand, the learned Government Advocate (Criminal Side) appearing on behalf of the respondents submitted that only because the petitioner did not produce the concerned original documents before the authority, the seized vehicle was not returned to him. However, he expressed no serious objection for returning the vehicle to the petitioner, if the original documents as required by the authorities are produced.

6. I heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the State. The only point raised by the petitioner is that he being the owner of the property on producing the documents evidencing the same, the same ought to have been returned by the Court below.

7. In the decision of this Court reported in Gajendran vs. State, through Inspector of Police, Civil Supplies CID, Madurai

(2008) 6 CTC 846 it was held that valuable properties need not be unnecessarily kept in the Court custody and it can be released with sufficient safeguard. According to the petitioner, he is the owner of the car and if the vehicle is allowed to be kept in Court deposit, it will be exposed to dust, heat and rain and it will diminish the value of the vehicle. Under those circumstances, I am of the view that the order passed by the Court below refusing to return the vehicle is unsustainable and therefore, this Revision Petition is allowed. The Court below is directed to return the vehicle - TVS SCOOTY PEP PLUS, bearing Registration No. TN-09 BT 5182 to the petitioner subject to the following conditions:-

i) The petitioner shall establish the ownership of the vehicle in question by producing the Hire Purchase agreement and other relevant records and the learned Magistrate, on perusal of the said documents, retaining the xerox copy of the same, shall return the original documents to the revision petitioner.

ii) The petitioner shall furnish two sureties for a sum of Rs.15,000/- [Rupees Fifteen Thousand only] each to the like sum to the satisfaction of the learned XXIII Metropolitan Magistrate, Saidapet at Chennai.

iii) The petitioner shall not alienate or encumber or alter the vehicle in any manner till the disposal of the criminal case.

iv) The court below shall effect return of the vehicle to the revision petitioner after causing necessary photographs and panchanama. The panchanama shall be drawn up by an officer of the Court in the presence of two Panchayatdhars and in the immediate presence of the Presiding Officer of the Court.

v) The petitioner shall file an affidavit of undertaking to the effect that he will produce the vehicle in question as and when it was directed to be produced by the court below during the course of trial.

vi) It is made clear that if the petitioner did not produce the original Hire Purchase Agreement and other relevant documents, this order will not enure to the benefit of the petitioner.

ga

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
 2. -do- through the Chief Metropolitan Magistrate,
Chennai.
 3. The Public Prosecutor
High Court, Madras 104.
 4. The Inspector of Police,
R6, Kumaran Nagar Police Station,
Chennai.
- + 1 cc to M/s.A.Thirumaran, Advocate SR 28456

rsk(co)
prk30/6

Crl RC No.284 of 2015



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