

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-06-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 469 of 2015

S. Suresh

.. Petitioner

Versus

1. State represented by
The Sub-Inspector of Police
B-3, Kanchi Taluk Police Station
Kancheepuram

2. Udhaya @ Udhayakumar .. Respondents/Complainants /
Accused

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. praying to set aside the order dated 24.02.2015 made in Criminal Miscellaneous Petition No. 2725 of 2014 on the file of Judicial Magistrate No.II, Kancheepuram fdissmissing the petition to return the Bolero pickup bearing Regn.No.TN 21 AQ 7495 to the petitioner herein.

For Petitioner : Mr. R. Sasikumar
For Respondent : Mr. V. Arul
Government Advocate (Crl.side) for R1

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 24.02.2015 passed by the Court below rejecting the application filed by him under Sections 451 of Cr.P.C. for return of property namely Bolero Jeep bearing Registration No. TN 21 AQ 7495.

2. According to the petiitoner, he is the owner of the Bolero Jeep bearing Registration No. TN 21 AQ 7495. It is alleged that on 18.09.2014 when the respondent police were on patrol duty, they have noticed the above said Jeep loaded with river sand and on seeing the police, the jeep was abandoned and the occupants of the Jeep fled from the scene of occurrence. It is further alleged that the the respondent police apprehended the second respondent herein and seized the vehicle. Upon seizure, the case in Crime No. 948 of 2014 was registered for the offences under Section 379 and 430 of IPC. On coming to know about the seizure of the vehicle, the petitioner has filed the petition in Crl.MP No. 2725 of 2014 before the Court below for return of the vehicle and it was dismissed on 24.02.2015. Challenging the same, the present Criminal Revision Case is filed.

3. The learned counsel for the petitioner submits that the petitioner is the owner of the property. The vehicle was seized on the ground it was allegedly used during the commission of offence. 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.

4. On the other hand, the learned Government Advocate appearing for the first respondent vehemently opposed the Criminal Revision Petition by contending that releasing the vehicle in favour of the petitioner would affect the trial in the criminal case.

5. I heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the State and perused the materials records made available.

6. 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 vehicle and if it is allowed to be kept in the custody of the respondent police, 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 - Bolero Jeep bearing Registration No. TN 21 AQ 7495 to the petitioner subject to the following conditions:-

i) The petitioner shall establish the ownership of the vehicle in question by producing the original Registration Certificate (RC Book) of the vehicle and other relevant records and the learned Magistrate, on perusal of the RC Book and other records, retain the original registration certificate (RC) book and return the xerox copy of the documents to the revision petitioner with a view to use the vehicle.

ii) The petitioner shall furnish two sureties for a sum of Rs.1,00,000/- each to the like sum to the satisfaction of the learned Judicial Magistrate, No.II, Kancheepuram

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 Panchayatdharas 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.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II
Kancheepuram

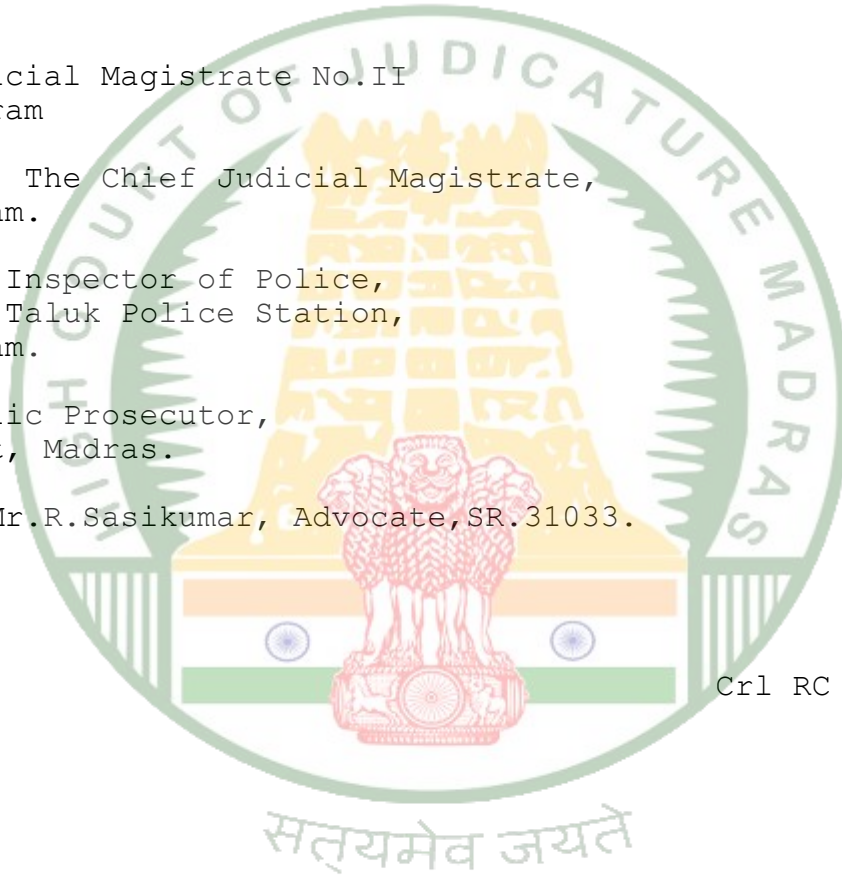
2.do thro' The Chief Judicial Magistrate,
Kanchipuram.

3.The Sub Inspector of Police,
B3 Kanchi Taluk Police Station,
kanchipuram.

4.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Sasikumar, Advocate,SR.31033.

Nm(co)
krd 15/7



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