

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 507 of 2015

Venkatesan

.. Petitioner

Versus

State rep. by  
Sub-Inspector of Police  
Kondapalayam Police Station  
Vellore District.

.. Respondent

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the order dated 02.01.2014 made in CrI.M.P. No. 2938 of 2013 on the file of the Court of Judicial Magistrate, Sholinghur, Vellore District.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.T.Arul  
Government Advocate (CrI.side)

ORDER

The petitioner has filed the above Criminal Revision Case challenging the order dated 02.01.2014 passed in CrI.M.P. No. 2938 of 2013 by the learned Judicial Magistrate, Sholinghur, Vellore District.

2. According to the petiitoner, he is the owner of the vehicle - lorry bearing Registration No.TN-23-AE-2791. The case of the prosecution is that on 29.05.2013, when the respondent police conducted routine vehicle checkup at Walajapet to Sholingur Road, at that time, the vehicle in question was intercepted by the respondent police, but, the vehicle went without stopping and the respondent police followed the vehicle and intercepted the vehicle at Venkatapuram Junction road and found three persons were sitting inside the lorry and on conducting search, it was found that 71 persons were sitting inside the lorry along with two gunny bags containing 13 Nos. handless spade and 10 Nos. of knife. During investigation, it came to light that the third accused took 71 persons at Thiruttani to Thiruppathi for cutting of rose wood tree and hence, a case was registered against the accused in Cr.No. 168 of 2013 for the offences under Sections 147, 148, 353, 379, 511 IPC r/w. 25(1) (B) (b) Arms Act.

3. Mr.E.Kannadasan, learned counsel appearing for the petitioner, submitted 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. According to the

petitioner, the vehicle was used for commission of offence without his knowledge. 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 Case.

4. On the other hand, Mr.T.Arul, learned Government Advocate appearing for the respondent opposed the prayer of the petitioner for release of the vehicle on the ground that the ownership of the seized vehicle will be decided by the trial court after due evidence during trial and therefore, the order passed by the Court below need not be interfered with. Further, returning the property to the petitioner will adversely affect the trial of the case, hence, he prayed for dismissal of the Criminal Revision Petition.

5. I heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the State.

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 lorry 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 Criminal Revision Case is allowed. The Court below is directed to return the vehicle - lorry bearing Registration No. TN-23-AE-2791 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 to prove his ownership and the learned Magistrate, on perusal of the RC Book and other records, retaining the xerox copy of the same, shall return the original documents to the revision petitioner with a view to use the vehicle.

ii) The petitioner shall furnish two sureties for a sum of Rs.15,000/- each for the like sum to the satisfaction of the learned Judicial Magistrate, Sholinghur, Vellore District.

(iii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Cr.No.168 of 2013 before the learned Judicial Magistrate, Sholinghur, Vellore District.

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.

Sd/-  
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

paa

To

The Sub-Inspector of Police  
Kondapalayam Police Station  
Vellore District.

2.The Judicial Magistrate  
Sholinghur  
Vellore District

3. The Public Prosecutor,  
High Court, Madras

1 cc to Mr.E.Kannadasan, Advocate, sr. 27633

Crl.R.C. No. 507 of 2015

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