

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.528 of 2015

Roopanathan

.. Petitioner/3rd party

Versus

1. State by
Inspector of Police
Panruti Police Station
Panruti.
2. State rep.by
The Special Sub Inspector of Police
Panruti Police Station
Panruti. Cr.No.120/2013) .. Respondents/Complainant

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 26.05.2015 passed by the learned Judicial Magistrate, No.I, Panruti in CrI.M.P.No.2768 of 2015 and call for the entire records.

For Petitioner : Mr.R.Muralidharan

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 26.05.2015 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 Swift D'zire Car bearing Registration No.TN-10 AQ 1795.

2. According to the prosecution, the petitioner's car bearing Registration No.TN-10 AQ 1795 met with an accident on 05.03.2015 and hence the same was kept under detention in the first respondent police station.

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

According to the petitioner, he gave his car to one of his friend viz., Seethapathy on 05.03.2015 for him to attend a marriage function at Panruti and the said Seethapathy had returned the car on the same day to the petitioner. However, the Inspector of Police in the first respondent police station contacted him over phone and stating that his car has involved in an accident on 05.03.2015 directed the petitioner to produce the car so as to produce the same before the

Regional Transport Officer. He would further submit that he is the owner of the car and he is holding valid Registration Certificate, licence etc., to evidence the same. However, the respondent police has detained his car without any valid reason. Therefore, he filed a petition before the Court below under Section 451 of the Criminal Procedure Code for return of his property. The Court below dismissed the said application on the ground that the petitioner did not produce the original Registration Certificate before the Motor Vehicles Inspector.

4. The learned counsel for the petitioner submits that the petitioner is the owner of the seized car. He would further submit that the vehicle was seized on the ground that it was allegedly used during the commission of offence, whereas, the first information report does not reveal the involvement of the vehicle. 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 original Registration Certificate before the authority, the seized car was not returned to him. However, he expressed no serious objection for returning the car 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 Car - Swift D'zire bearing Registration No. TN-10 AQ 1795 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.1,00,000/- [Rupees one lakh only] each to the like sum to the satisfaction of the learned Judicial Magistrate, No.1, Panruti.

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 R.C.Book, this order will not enure to the benefit of the petitioner.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vj2

1. The Judicial Magistrate No.I, Panruti.
2. -do- Through the Chief Judicial Magistrate, Cuddalore.
3. The Public Prosecutor, High Court, Madras-104.

+ 1 cc to Mr.R.Muralidharan, Advocate sr.26656

Cr1 RC No.528 of 2015

MSM(CO)
Eu 18.06.15