

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.598 of 2015

S.Sheik Dawood

.. Petitioner

Versus

State rep.by

The Inspector of Police

Mecheri Police Station

Salem 636 002. (Crime No;128/2014)

.. Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 03.03.2015 passed by the learned Judicial Magistrate, No.II, Mettur in CrI.M.P.No.1082 of 2015.

For Petitioner : Mr.K.Karnakaran

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 03.03.2015 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 Ford Classic Car bearing Registration No.TN-30 AT 3526.

2. According to the prosecution, the petitioner's car bearing Registration No.TN-30 AT 3526 has involved in a 302 case in Crime No.128 of 2014 and hence the same was kept under detention in the respondent police station.

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

According to the petitioner, he is the owner of the Ford Classic Car bearing Registration No.TN-30 AT 3526 and he mortgaged the same with his friend and obtained money for repayment of his EMI. However, stating that the said car is involved in a murder case, the respondent along with one other car, viz., Maruti Omni Van bearing Registration No.TN36 R 1361 has seized and kept in their custody. He would also submit that since his car was missing, he also gave a

police complaint. 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 only on the ground that investigation has not been completed.

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. It is his further contention that in identical circumstances, this Court by order dated 21.08.2014 in Crl.R.C.No.772 of 2014 has directed the release of the another car said to have been involved in the same Crime Number. 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 respondent submitted that the Court below dismissed the petitioner's petition only on the ground that the investigation is pending. However, he expressed no serious objection for returning the car to the petitioner, with some stringent conditions.

6. I heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the State and perused the records.

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. Further, one other car involved in the same offence has already been ordered to be released by this Court in Crl.R.C.No.772 of 2014 dated 21.08.2014. Under those circumstances, I am of the view that the order passed by the Court below in refusing to return the vehicle is unsustainable and therefore, this Revision Petition is allowed. The Court below is directed to return the Car - Ford Classic Car bearing Registration No.TN-30 AT 3526 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.2,00,000/- [Rupees two lakhs only] each to the like sum to the satisfaction of the learned Judicial Magistrate, No.II, Mettur.

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

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate, No.II,
Mettur
2. The Inspector of Police Mecheri Police Station
Salem-636002.
3. The public Prosecutor,
Madras.

+1cc to Mr.K.Karnakaran, Advocate sr.no.33816

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srg 03.08.2015