

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.07.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.687 of 2015

K.Anbuselvan

.. Petitioner

Versus

State rep.by

The Inspector of Police

Kalavai Police Station

Vellore District.

(Crime No.70 of 2015)

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order dated 30.06.2015 passed by the learned District Munsif cum Judicial Magistrate, Arcot, Vellore District in Crl.M.P.No.3211 of 2015.

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 30.06.2015 passed by the Court below in rejecting the application filed by the petitioner under Section 451 of Cr.P.C. for return of vehicle, namely, TATA SUMO VICTA EX bearing Registration No.TN 19 M 1294.

2. According to the prosecution, the petitioner's car bearing Registration No.TN-19 M-1294 was seized from the petitioner in connection with the case in Crime No.70 of 2015 on the file of the respondent police on 17.06.2015 for the commission of alleged offence under Section 399 IPC.

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

According to the petitioner, he is the owner of the vehicle and gave the vehicle in question to his brother-in-law for his personal use and on that day, respondent police has seized the vehicle from him and according to him, both he and his brother-in-law are not involved in any case and they have been falsely implicated in the above said crime number. He would further submit that he is also

holding valid Registration Certificate, licence etc. 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 persons, who travelled in the said vehicle were involved in three other criminal cases and the vehicle was also used in an earlier case for the commission of the offence.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle in question and 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. The learned counsel also submitted that he is willing to return the vehicle as and when required and he will not alienate the vehicle till the disposal of the case. Therefore, the learned counsel appearing for the petitioner prayed this Court to allow this Criminal Revision Petition.

5. I have also heard the learned Government Advocate (Criminal Side) appearing on behalf of the first respondent and perused the materials available on record.

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 the vehicle is allowed to be kept in open space, 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 accordingly, the same is set aside. The Court below is directed to return the vehicle. viz., Tata Sumo Victa Ex bearing Registration No.TN 19 M 1294 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) and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC Book and other records, retaining the original of the R.C.Book, shall return the xerox copy of the R.C.Book to the revision petitioner with a view to use the vehicle excepting the original R.C. Book which will be in the custody of the Court.

***ii) The petitioner shall execute bond for Rs.1,00,000/- [Rupees one lakh only] to the satisfaction of the learned District Munsif cum**

Judicial Magistrate, Arcot, Vellore District.

(iii) The petitioner shall also furnish two sureties for a sum of Rs.10,000/- each to the satisfaction of the learned District Munsif cum Judicial Magistrate, Arcot, Vellore District.

iv) The petitioner shall also file an undertaking affidavit before the learned District Munsif cum Judicial Magistrate, Arcot, Vellore District to the effect that he will not alienate or encumber or alter the vehicle in any manner till the disposal of the criminal case.

v) 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.

vi) 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.

7. With the above direction, this Criminal Revision Case is allowed.

vj2

(Sd)

Assistant Registrar (CS-II)

24.7.2015

*Corrected as per order of this Court dated 29.7.2015.

Sd/-

Assistant

31.7.2015

True copy

Sub Assistant Registrar.

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To

1. The District Munsif cum Judicial Magistrate,
Arcot, Vellore District.
 2. -do- thro' The Chief Judicial Magistrate, Vellore.
 3. The Public Prosecutor, High Court, Madras
 4. The Inspector of Police,
Kalavai Police Station, Vellore District.
- + 1 cc to M/s.R.Sasikumar, Advocate **SR 38913**

to be substituted
to the order
already despatched
on 28.07.15

mp(co)
prk24/7

pmk.31.7.2015

Crl RC No.687 of 2015



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