

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

CRIMINAL REVISION CASE NO.780 OF 2015

Murugesan

.. Petitioner/Petitioner

Versus

The Station House Officer
Nettapakkam Police Station
Puducherry.

... Respondent/Complainant

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 21.07.2015 passed by the learned Sub Divisional Magistrate (South) at Villianur in M.C.No.512 of 2014.

For Petitioner : Mr.R.Ashraf Khan

For Respondents : Mr.R.Thangavel
Public Prosecutor (Puducherry)

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 21.07.2015 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 M.Green Nano LXBS Car with Registration No.TN-20 CY 8322.

2. According to the prosecution, the petitioner's car bearing Registration No.TN-20 CY 8322 was seized based on the complaint given by one Kuttiyan stating that his son viz., Praveen kumar was murdered by his friends and 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, the respondent police has seized the petitioner's car based on the First Information Report filed under Section 174 of the Cr.P.C., dated 07.06.2014 on the ground that one Praveen Kumar died while he was taken to the Government Hospital, Puducherry from Government Hospital, Madukarai in the alleged car. 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 investigation in the matter is still pending.

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 contain the name of the petitioner. 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 Public Prosecutor (Puducherry) appearing on behalf of the respondent submitted that since the investigation in the matter has not yet been completed the vehicle was not returned. However, he expressed no serious objection for returning the car to the petitioner, if the original documents as required by the authorities are produced by the petitioner.

6. I heard the learned counsel for the petitioner as well as the learned Public Prosecutor (Puducherry).

7. The only point raised by the petitioner is that he being the owner of the property; that he has not been named in the first information report, on producing the relevant documents, the same ought to have been returned by the Court below.

8. 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 M.Green Nano LXBS Car with Registration No.TN-20 CY 8322 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 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 a bond for a sum of Rs.2,00,000/- [Rupees two lakhs only] to the satisfaction of the learned Sub Divisional Magistrate (South) at Villianur.

iii) The petitioner shall also furnish two sureties for a sum of Rs.10,000/- [Rupees ten thousand only] each to the satisfaction of the learned Sub Divisional Magistrate (South) at Villianur.

iv) The petitioner shall 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.

vii) 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Sub Divisional Magistrate (South) at Villianur.
2. The Station House Officer,
Nettapakkam Police Station,
Puducherry.
3. The Public Prosecutor, Puducherry

+1cc to M/s R.Ashrafkhan Vide SR 39152

+1cc to Senior Advocate, Senior Government Pleader cum
Senior Public Prosecutor for Puducherry Vide SR 39808

CRL RC NO.780 OF 2015

SKV (co)
Rs 13.08.2015



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