

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-08-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 795 of 2015

M/s.Gulf Engineers and
Constructions (P) Limited
By its Director
Rajesh Kumar
No.128 Jaihind Nagar
Ernavoor
Chennai.

... Petitioner

Versus

State rep. by
Sub-Inspector of Police
Prohibition and Excise Wing
Hosur
Krishnagiri District.
Cr.No.905 of 2015

... Respondent

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the order dated 04.07.2015 made in CrI.M.P. No. 3202 of 2015 on the file of the Judicial Magistrate No.II, Hosur and set aside the same.

For Petitioner : Mr.A.Balamurugan

For Respondent : Mr.T.Arul

Government Advocate (Crl.side)

ORDER

The petitioner has filed the above Criminal Revision Case challenging the order dated 04.07.2015 made in CrI.M.P. No. 3202 of 2015 on the file of the Judicial Magistrate No.II, Hosur.

2. According to the petitioner, he is the owner of the car viz., Mahindra Bolero SLV 7 STR bearing Registration No.TN-18-AD-1080. The case of the prosecution is that on 07.06.2015, when the vehicle was nearing Hosur check post, at that time, the vehicle in question was intercepted by the respondent police and on conducting search, it was found that it carried 18 bottles of liquors from Karnataka and hence, a case was registered against the accused in

Cr.No. 905 of 2015 for the offence under Section 4(1)(a) of Tamil Nadu Prohibition Act.

3. Mr.A.Balamurugan, learned counsel appearing for the petitioner submitted that the petitioner is the owner of the property. The vehicle was seized on the ground that it was allegedly used during the commission of offence. According to the petitioner, the vehicle was not used for commission of the alleged offence and that a false case has been foisted against the accused. 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 get 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 Case.

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 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 Criminal Revision Case is allowed. The Court below is directed to return the car viz., Mahindra Bolero SLV 7 STR bearing Registration No. TN-18-AD-1080 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 after perusing the R.C. Book and other records shall retain the original of the R.C.Book and shall give a 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 deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of Cr.No.905 of 2015 before the learned Judicial Magistrate No.II, Hosur.

(iii) The petitioner shall execute a bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with two sureties each for the like sum to the satisfaction of the learned Judicial Magistrate No.II, Hosur.

(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 before the Lower Court 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) Whenever the case is posted for enquiry in respect of the confiscation proceeding, he has to participate and if necessary, produce the vehicle.

(viii) Since the confiscation proceeding has been initiated by the respondent police, it is made clear that this order is passed without prejudice to any action to be taken in respect of the confiscation proceeding, which shall be agitated by the petitioner in a separate forum.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

paa

To

1. The Judicial Magistrate No.II
Hosur.

2. -do- Through The Chief Judicial Magistrate,
Krishnagiri.

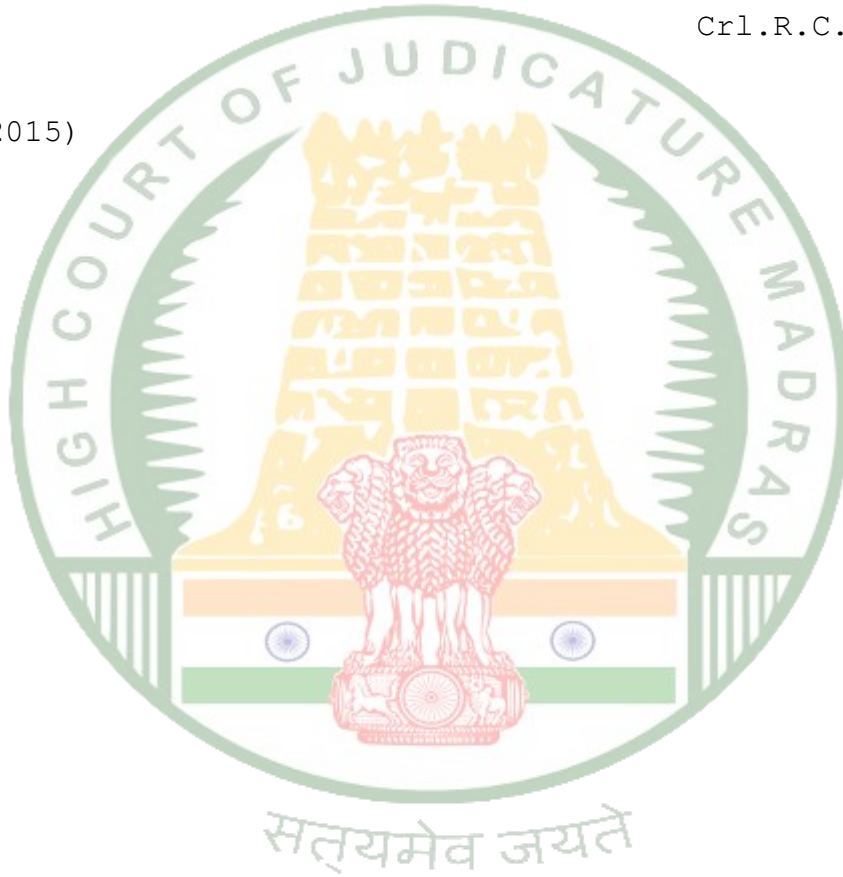
3. The Sub-Inspector of Police
Prohibition and Excise Wing
Hosur
Krishnagiri District.

4. The Public Prosecutor,
High Court, Madras - 104.

+1cc to Mr.A.Balamurugan, Advocate, S.R.No.40526

Crl.R.C. No. 795 of 2015

RJ(CO)
CA(26/08/2015)



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