

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.891 of 2015

C.Karthikeyan

.. Petitioner

Versus

The State rep.by
The Inspector of Police
Karamadai Police Station
Coimbatore.

.. Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the order dated 01.02.2014 passed by the learned Judicial Magistrate, Mettupalayam in C.M.P.No.292 of 2014 and to issue directions for interim custody of Vehicle BMW Car bearing registration No.PY-01 BL 2693.

For Petitioner : Mr.G.Sankaran

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 01.02.2014 passed by the Court below in rejecting the application filed by the petitioner under Sections 451 and 457 of Cr.P.C. for return of vehicle, namely, BMW Car bearing Registration No.PY-01 BL 2693.

2. The petitioner's vehicle was seized by the respondent-police in connection with the case in Crime No.501 of 2013 for the commission of alleged offence under Section 307 IPC and Section 3 r/w 30 of Arms Act and was kept under illegal detention in the respondent police station. The petitioner filed a petition before the Court below under Sections 451 and 457 of the Criminal Procedure Code seeking custody of the vehicle. Since the same was dismissed, the petitioner has filed this revision case.

3. 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.

4. Learned counsel would further brought to the notice of this Court, that earlier the vehicle was ordered to be released and after such release, the vehicle met with an accident. Therefore, the petitioner without obtaining permission altered the vehicle by doing repairing work. When the same was brought to the notice of the Court below, the vehicle was again confiscated and kept in the custody of the respondent police station. He would also submit that the petitioner has no knowledge about the fact that before making any alteration he has to get the permission of the Court. He also submitted that the petitioner is willing to produce the vehicle as and when required and he will not alienate the vehicle till the disposal of the case. Accordingly, he prayed for setting aside the order passed by the Court below.

5. Learned Government Advocate (Criminal Side) would submit that earlier the petitioner has complied with the condition for release of the vehicle and he has also executed the bond as ordered by the Court and only because he has rectified the damage caused to the vehicle due to the accident, the same came to be confiscated again. Accordingly, he would submit that the vehicle may be returned to the petitioner with stringent conditions.

6. Heard both sides and perused the materials available on record.

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.

8. In this particular case, earlier the vehicle was released with usual conditions and that the petitioner also complied with the same for return of his property. However, the petitioner due to the accident caused to the vehicle has altered the same without obtaining the permission from the Court. Therefore, the vehicle was again confiscated and kept in the custody of the respondent police for the past one year. It is seen that the vehicle was photographed and videographed when it was confiscated earlier. Further, the petitioner also undertakes to file an affidavit before the Court concerned to produce the vehicle as and when required by the court below during the hearing of the criminal case. Since the petitioner pleads innocence and that if the vehicle is allowed to be kept in open space, it will be exposed to dust, heat and rain and the value of the vehicle will be diminished, I am inclined to pass the following order:

(i) The order dated 01.02.2014 passed by the learned Judicial Magistrate, Mettupalayam in C.M.P.No.292 of 2012 is set aside.

(ii) The Court below is directed to return the property, viz. BMW Car bearing Registration No.PY-01 BL-2693 to the petitioner, immediately.

(iii) 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.

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

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.

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

vj2

Sd/-
Assistant Registrar(LA)

/ True Copy /

सत्यमेव जयते Sub Assistant Registrar

To

1. The Judicial Magistrate,
Mettupalayam
2. The Chief Judicial Magistrate,
Coimbatore
3. The Public Prosecutor,
High Court, Madras

WEB COPY

4. The Inspector of Police,
Karamadai Police Station,
Coimbatore

+1 C.C. to MR.G.SANKARAN, Advocate in Sr.No.54092

Cr1 RC No.891 of 2015

NM(CO)
sd : 07/10/2015



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