

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.9.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.916 of 2015

Babu

.. Petitioner/Accused

Versus

State : Represented
by Sub Inspector of Police
Crime No.1213 of 2015
Prohibition Wing, Hosur

... Respondent/Complainant

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to call for the records and set aside the order dated 25.8.2015 in CrI.MP.No.3260 of 2015 in Crime No.1213 of 2015 on the file of the Judicial Magistrate Court II, Hosur, Krishnagiri District.

For Petitioner : Mr.R.John Sathyan

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 25.8.2015 passed by the Court below in rejecting the application filed by the petitioner under Section 451 and 457 of Cr.P.C. for return of vehicle, namely, Eicher Mini-lorry bearing Registration No.TN 22 U 8566.

2. According to the petitioner, he is the owner of the vehicle and his driver has been charged with an offence under Section 4(1) (a) of the Tamil Nadu Prohibition Act by the respondent on 01.8.2015 at about 1.00 p.m for allegedly transporting liquor bottles of Karnataka State unlawfully. The vehicle of the petitioner was also seized and the same was kept under illegal detention in the respondent police station. Therefore, the petitioner filed a petition before the Court below under Section 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. 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.

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

5. 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, therefore, this Revision Petition is allowed. The Court below is directed to return the vehicle bearing Registration No. TN 22 U 8566 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 and the original R.C. Book will be in the custody of the Court.

ii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) to the Credit of Crime No.1213 of 2015 on the file of the Judicial Magistrate No.II, Hosur.

(iii) The petitioner shall also furnish two sureties for a sum of Rs.10,000/- each like sum to the satisfaction of the learned Judicial Magistrate No.II, Hosur.

iv) The petitioner shall also file an undertaking affidavit before the learned Judicial Magistrate No.II, Hosur 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 Panchayatdharas 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 co-operate with the confiscation proceedings and appear before the Court below as and when required 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.

It is made clear that this order will not in any way affect the confiscation proceedings.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Judicial Magistrate No.II, Hosur, Krishnagiri Dt.
 2. The Sub-Inspector of Police, Prohibition Wing, Hosure, Krishnagiri District.
 3. The Public Prosecutor, High Court, Madras
- +1 cc to Mr.R.John Sathyan, Advocate, sr.47013.

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