

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.9.2015

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THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.920 of 2015

Kamal

... Petitioner

Versus

State rep.by

Sub- Inspector of Police
Walajahpet Police Station

... Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.II, Walajahpet in C.M.P.No.474 of 2015 and direct the lower Court to return Fargo Lorry bearing Reg.No.TSC.967, in connection with the case in Crime No.08 of 2015 on the file of the respondent Police.

For Petitioner : Mr.R.Thamaraiselvan

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 07.4.2015 passed by the Court below in rejecting the application filed by the petitioner for return of vehicle, namely, Fargo Lorry bearing Registration No.TSC 967.

2. The respondent seized the vehicle from the petitioner in connection with the case in Crime No.08/2015 on the file of the respondent for the commission of alleged offence under Section 379, 430 IPC on the allegation that the petitioner has used the vehicle for illegal purpose and was kept under illegal detention in the respondent police station. The petitioner filed a petition before the Court below 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, namely, Fargo Lorry bearing Registration No.TSC.967 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.3,00,000/- (Rupees Three lakhs only) to the Credit of Crime No.08 of 2015 on the file of the Judicial Magistrate No.II, Walajahpet.

iii) The petitioner shall also execute bond for Rs.1,00,000/- [Rupees One Lakh only] to the satisfaction of the learned Judicial Magistrate No.II, Walajahpet.

(iv) 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, Walajahpet.

v) The petitioner shall also file an undertaking affidavit before the learned Judicial Magistrate No.II, Walajahpet to the effect that he will not alienate or encumber or alter the vehicle in any manner till the disposal of the criminal case.

vi) 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.

vii) 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/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II, Walajahpet
2. The Public Prosecutor, High Court, Madras
3. The Sub Inspector of Police, Walajahpet Police Station.

Cr1 RC No.920 of 2015

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CA(25/09/2015)