

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.9.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.960 of 2015

K.Shanmugam

.. Petitioner

Versus

The State of Tamil Nadu
Rep.by The Inspector of Police
Valapady Police Station
Velapady, Salem District

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to call for the records in C.M.P.No.412 of 2015 in Crime No.442 of 2015 on the file of The learned Sessions Judge, Mahila Court, Salem and set aside the same.

For Petitioner : Mr. K.Selvaraj

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 07.7.2015 passed by the Court below in rejecting the application filed by the petitioner under Section 451 of Cr.P.C. for return of vehicle, namely, TATA ACE (Yellow Colour), bearing Registration No.TN 77 Z 7687.

2. The respondent seized the vehicle from the petitioner in connection with the case in Crime No.142/2015 on the file of the respondent for the commission of alleged offence under Section 363, 342 IPC read with 5(g), 6 of Protection of Children from Sexual Offences Act -2012 on the allegation that 7 accused used the vehicle to kidnap the minor victim girl to various places and had sexual intercourse with her by one after another and the vehicle was kept under illegal detention in the respondent police station. The petitioner filed a petition before the Court below under Section 451 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 77 Z 7687 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 deposit Rs.30,000/- [Rupees Thirty Five Thousand only] before the learned Sessions Judge, Mahila Court, Salem, to the credit of Cr.No.442 of 2015.

iii) The petitioner shall execute bond for Rs.50,000/- [Rupees Fifty Thousand only] to the satisfaction of the learned Sessions Judge, Mahila Court, Salem.

(iv) The petitioner shall also furnish two sureties for a sum of Rs.10,000/- each like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Salem.

v) The petitioner shall also file an undertaking affidavit before the learned Sessions Judge, Mahila Court, Salem 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 produce the vehicle in question as and when it was directed to be produced by the court below during the course of trial.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

- 1.The learned Sessions Judge, Mahila Court, Salem
- 2.The Inspector of Police,
Valapady Police Station, Valapady,
Salem District.
- 3.The Public Prosecutor,
High court, Madras

+ 1 cc to Mr.K.Selvaraj, Advocate SR 49325

lrs(co)
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