

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.3584 of 2015

P.A.Matheswaran

...Petitioner/Petitioner/Accused No.1

vs.

The State, rep. by
The Sub Inspector of Police,
Thudialur Police Station,
Coimbatore District.

... Respondent/Respondent/Complainant

Criminal Original Petition filed under Section ****483** of the Criminal Procedure Code praying to set aside the proceedings of the learned Judicial Magistrate No.I, Coimbatore, in Crl.M.P.No.255 of 2015 in Cr.No.750 of 2014, from 23.01.2015 to 30.01.2015, and to return the petitioner's vehicles, bearing Registration Nos. TN 34 S 6674 and TN 34 S 1198, to his interim custody till the conclusion of the case.

For Petitioner : Mr.V.Pavel

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

The petitioner is the first accused in Cr.No.750 of 2014. The said case was filed on the basis of the complaint given by one Jothimani against the petitioner and three others for offence under Sections 427, 294(b) and 506(ii) IPC. According to the complaint given in Cr.No.750 of 2014, the petitioner along with other accused trespassed into the de facto complainant's property and damaged the fence by using JCB Vehicles, bearing Registration Nos.TN 34 S 6674 and TN 34 S 1198.

2 The learned counsel appearing for the petitioner submitted that the said vehicles were seized by the respondent/Police in connection with the aforesaid Crime Number and remanded to the Court below. The learned counsel further submitted that the petitioner filed Crl.O.P.No.822 of 2015, to quash the proceedings in above said Crime Number and also taken out Miscellaneous Petition No.1 of 2015, seeking for stay of the proceedings in Cr.No.750 of 2014. This

Court, by order, dated 13.01.2015, granted an order of stay, which is only to the effect that investigation in Cr.No.750 of 2014, should not be proceeded further. Thereafter, the petitioner filed a Petition, viz., Crl.M.P.No.255 of 2015, seeking for interim custody of his vehicles, viz. JCB. As the said Crl.M.P.No.255 of 2015 was adjourned to 02.03.2015, by the learned Judicial Magistrate No.I, Coimbatore, by docket order, dated 30.01.2015, on the ground that stay is pending in Crl.O.P.No.822 of 2015, before this Court, the present Criminal Original Petition is filed, to set aside the said docket order.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondent/Police.

4. The learned Additional Public Prosecutor for the respondent submitted that the learned Magistrate, without properly appreciating the scope of the stay granted in M.P.No.1 of 2015, in Crl.O.P.No.822 of 2015, adjourned the case to 02.03.2015, on erroneous presumption that by reason of the stay granted in Crl.O.P.No.822 of 2015, he cannot pass any order regarding the interim custody of vehicles. The Additional Public Prosecutor, therefore, submitted that suitable direction may be given to the learned Magistrate to consider the Petition filed by the petitioner for interim custody of his vehicles.

5. Heard both sides.

6. According to me, Crl.O.P.No.822 of 2015, was filed to quash the proceedings in Cr.No.750 of 2014 on the file of the respondent/Police and in that Criminal Original Petition, order was passed in M.P.No.1 of 2015, thereby, staying further investigation in connection with Cr.No.750 of 2014, till the disposal of Crl.O.P.No.822 of 2015. It is also admitted that the vehicles were seized in connection with Cr.No.750 of 2014 and they were produced before the Magistrate Court, and thereafter, as per the direction of the learned Magistrate, the respondent/Police have taken back the vehicles for safe custody. In such circumstances of the case, the Crl.M.P.No.255 of 2015, was filed by the petitioner seeking for interim custody of his vehicles.

7. According to me, the stay granted in Crl.O.P.No.822 of 2015, has nothing to do with the order to be passed by the learned Magistrate in the Petition filed by the petitioner seeking for interim custody of vehicles and it is for the learned Magistrate to consider and pass orders on the Petition filed by the petitioner after hearing the Public Prosecutor. If the learned Magistrate is satisfied that the petitioner is entitled to the interim custody of vehicles, he may order for the same, having regard to the judgment of Hon'ble Supreme Court reported in (2003) 1 C.T.C. 175, in re (Sunderbhai Ambalal Desai Vs. State of Gujarat) as it has been held

in that judgment that the vehicles should not be kept at Police Station for a long period, being exposed to sun and rain, as they would become junk day by day, thereby, losing its utility value. Therefore, the learned Magistrate is directed to consider the Petition filed by the petitioner in C.M.P.No.255 of 2015, on merits and pass orders within a period of three weeks from the date of receipt of a copy of this order.

8. With the above observation, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar
Dated: 11/03/15

***Corrected as per order of
this court dated 25/3/15**

**Sd/- Assistant Registrar(cs III)
Dated: 30.03.2015**

//True Copy//

Sub Assistant Registrar

sd

To

1. The Judicial Magistrate No.I,
Coimbatore.

2. The Sub Inspector of Police,
Thudialur Police Station,
Coimbatore District.

3. The Public Prosecutor,
High Court, Madras.

Corrected order to
be substituted to
the order already
Despatched on 11/3/15

+1 cc to Mr. V.Pavel, Counsel for the petitioner, SR.No.13154

Crl.O.P.No.3584 of 2015

vgi(co)
pmk.11.3.2015
CA(31/03/2015)

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