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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2015

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THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

CRL.R.C.(MD)Nos.103 & 116 of 2015

Cr1.R.C.(MD).No.103 of 2015:

Ganesan

.. Petitioner

.. Vs ..

1.State rep. by the
Inspector of Police,
Villoor Police Station,
Madurai District.

2.Karthigai Selvam

.. Respondents

Criminal revision petition filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order, dated 17.12.2014, passed in Cr.M.P.No.11314 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Peraiyur and set aside the same and consequently, allow the petition in Cr.M.P.No.11314 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Peraiyur.

For Petitioner : Mr.V.Sasikumar

For 1st respondent : Mr.C.Ramesh,
Addl. Public Prosecutor

For 2nd respondent : Mr.T.Vadivelan

Cr1.R.C.(MD).No.116 of 2015:

Karthigaiselvan

.. Petitioner

.. Vs ..

State rep. by the
Inspector of Police,
Villoor Police Station,
Villoor, Madurai District.

.. Respondent

Criminal revision petition filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order, dated 17.12.2014, passed in Cr.M.P.No.11321 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Peraiyur and set aside the same.



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For Petitioner : Mr.T.Vadivelan
For respondent : Mr.C.Ramesh,
Addl. Public Prosecutor

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COMMON ORDER

By consent both revision petitions are taken up for final disposal.

Crl.R.C.(MD).No.103 of 2015:

2.The petitioner claims that he is the owner of the vehicle - TATA 407 Maxi Cab bearing Registration No.TN-67-V-5006. A complaint in Crime No.4 of 2014 was lodged on 19.01.2014 by one Tamilselvi W/o.Gnanasekaran making allegations against Guruservai, Aathi Narayanan, Pandiarajan and three others, stating among other things that one Karthigaiselvan is her son-in-law and the complaint given by him against Guruservai and Aathi Narayanan is pending and the complaint given by them against her and her son-in-law is also pending. The two vehicles viz., Tempo bearing registration No.TN-58-Y-6018 and TATA 407 Maxi Cap bearing registration No.TN-67-V-5006 were stolen, while they were parked in the land of the son-in-law viz., Karthigaiselvan. The respondent - Police on receipt of the said complaint has registered a case for the alleged commission of the offences under Sections 143, 447, 427 and 379 IPC.

3.The petitioner herein filed Cr.M.P.No.11314 of 2014 under Sections 457 and 451 of Cr.P.C. praying for the return of the vehicle stating among other things that the vehicle bearing registration No.TN-67-V-5006 is nothing to do with the defacto complainant and the said vehicle was sold by her son-in-law in favour of one Arokiyam and Arokiyam has sold the same to his brother Benjamin, who in turn sold the same to the petitioner herein viz., Ganesan on 11.07.2014 and he also took necessary steps to transfer the ownership of the vehicle and since the vehicle has been parked in the open place, it is subjected to vagaries of weather and therefore, prays for return of the vehicle by way of interim custody.

4.The Court of District Munsif cum Judicial Magistrate, Peraiyur has taken into consideration the plea of the petitioner and the respondent/prosecution. Since the complaint has been lodged alleging theft of the said vehicle, the Court is unable to find out *prima facie* as to the ownership of the said vehicle and citing the said reasons dismissed the said petition, vide order dated 17.12.2014 and aggrieved by the same, the present revision is filed.

Crl.R.C.(MD).No.116 of 2015 :

5.The son-in-law of the defacto complainant in Crime No.4 of 2014 has filed Crl.M.P.No.11321 of 2015 for return of the very same vehicle stating among other things that the petitioner in Crl.R.C.(MD).No.103 of 2015, along with his friends viz., Arockiyam and Benjamin, has stolen the vehicle and created forged documents and changed the name in



the registration certificate. The said petition filed by the petitioner herein was also dismissed on the very same day by the very same Court stating the very same reasons. Challenging the same, the present revision is filed.

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6. Since the matters in issue pertain to return of the vehicle bearing registration No.TN-67-V-5006, these revisions are taken up together and disposed of by this common order.

7. Heard the rival submissions made by the learned counsel appearing for the petitioners.

8. Mr. C. Ramesh, learned Additional Public Prosecutor took notice and on instructions from the Assistant Registering Authority, Tenkasi, today produced a letter/proceeding relating to the ownership of the said vehicle, dated 23.03.2015.

9. As per the letter/proceeding, dated 23.03.2015, the petitioner in Crl.R.C.(MD).No.103 of 2015 is the registered owner from 07.08.2014 and the petitioner in Crl.R.C.(MD).No.116 of 2015 was the previous owner between 25.06.1994 and 06.08.2014, and the said letter/proceeding of Assistant Registering Authority, Tenkasi, dated 23.03.2015, is placed on record and in the light of the same, this Court is of the view that Crl.R.C.(MD).No.103 of 2015 is to be allowed and Crl.R.C.(MD).No.116 of 2015 is to be dismissed.

10. In the result, Crl.R.C.(MD).No.103 is allowed and the impugned order, dated 17.12.2014, made in Cr.M.P.No.11314 of 2014, on the file of the Court of District Munsif cum Judicial Magistrate, Peraiyur, is set aside, and the vehicle - TATA 407 Maxi Cap bearing registration No.TN-67-V-5006, Chassis No.357012DQQ803325, is ordered to be returned to the petitioner viz., Ganesan, S/o.Sudalai Mada Nadar, by way of interim custody subject to the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with one surety for the like sum to the satisfaction of the Court of District Munsif cum Judicial Magistrate, Peraiyur;

(ii) the petitioner shall produce the original Registration Certificate pertaining to the said vehicle before the said Court;

(iii) the petitioner shall not alienate or encumber the vehicle and shall not alter the basic features of the vehicle; and

(iv) the petitioner shall produce the said Vehicle as and when the jurisdiction Court / Police requires the same.

11. In view of the orders passed in Crl.R.C.(MD).No.103 of 2015, Crl.R.C.(MD).No.116 of 2015 is dismissed.

Sd/
Assistant Registrar

/True copy/



To

1. The District Munsif cum Judicial
Magistrate, Peraiyur.

2. The Inspector of Police,
Villoor Police Station,
Villoor, Madurai District.

3 The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S. T.Vadivelan, Advocate in SR.No. 15538

+1cc to M/S. V.Sasikumar, Advocate in SR.No. 14771

TS/09.04.2015/4P-6C

CRL.R.C. (MD) Nos.103 & 116 of 2015

26.03.2015