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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.01.2015
CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

CRL.RC.(MD)No.2 of 2015

J.Stalin Jose : Petitioner

Vs.

The State of Tamil Nadu,
Rep by the Inspector of Police,
Thuckalay Police Station,
Kanyakumari District. : Respondent

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to allow this Criminal Revision Petition and set aside the order passed in Crl.M.P.No.10042 of 2014, on the file of the Judicial Magistrate, Padmanabhapuram, dated 15.10.2014.

For Petitioner : Mr.C.K.M.Appaji
For Respondent : Mr.P.Kandasamy
Government Advocate [Criminal Side]

O R D E R

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The petitioner has come up with the present Criminal Revision Case challenging the order dated 15.10.2014, made in Crl.M.P.No.10042 of 2014.

2. Mr.C.K.M.Appaji, learned counsel appearing for the petitioner, would submit that the petitioner is a qualified Allopathy Medical Doctor and he is employed in Tamil Nadu Medical Services and doing his postgraduation. According to the petitioner, he purchased a Brand New Mahindra Bolero vehicle and it was temporarily registered on 11.10.2008 and he has remitted a sum of Rs.8,000/- for the purpose of getting permanent registration. The petitioner made arrangements to take delivery of the vehicle. In the meanwhile, the petitioner came to be implicated in a case in Crime No.578 of 2013 for the commission of offence under Section 307 of the Indian Penal Code, on 07.08.2013, alleging that he attempted to shot his hospital staff with a gun and fled away from the scene of occurrence, by using the said vehicle. The said vehicle was seized by the respondent police and according to the petitioner, it is parked in a open place and naturally, the material value and utility of the vehicle will, definitely, come down.

3. The learned counsel would further submit that since the vehicle is in the state of disuse at least for a period of two years and that the material parts of the investigation have already been over, he filed Crl.M.P.No.10042 of 2014, on the file of the learned Judicial Magistrate, Padmanabhapuram. The learned Judicial Magistrate finding that no documents have been filed to prove his ownership, dismissed the petition, vide order dated 15.10.2014. Challenging the same, the petitioner has filed the present Criminal Revision Case.

4. The learned counsel for the petitioner has drawn the attention of this Court to the additional typed set of documents, which contain the temporary certificate of registration as well as insurance certificate

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and would contend that there cannot be any impediment to return the vehicle to the petitioner, as he has produced documents to prove his ownership. He would further contend that prior to the registration of the vehicle, he was implicated in a case in Crime No.578 of 2013 for the commission of offence under Section 307 of the Indian Penal Code and therefore, the vehicle could not registered.

5. Mr.P.Kandasamy, learned Government Advocate [Criminal Side], would submit that since the petitioner has failed to produce temporary certificate of registration as well as insurance certificate, the Trial Court has rightly rejected the claim of the petitioner for return of the vehicle.

6. This Court has carefully considered the rival submissions made by the learned counsel on either side and perused the materials placed before this Court.

7. A perusal of the additional typed set of documents would show that the vehicle was temporarily registered on 11.08.2008 and temporary registration certificate was also issued in favour of the petitioner and the United India Insurance Company Limited also issued insurance certificate to the Mahindra Bolero, bearing Chassis No.**(*)MA1PS2GAK82H15669** and Engine No.GA84H31241, to prove the ownership of the petitioner. As rightly contended by the learned counsel for the petitioner, the vehicle was seized in the year 2013 and it is parked in the open place and naturally, the material value and utility of the vehicle will definitely come down.

8. In the light of the reasons assigned above, the Criminal Revision Case is allowed and the impugned order dated 15.10.2014, made in Crl.M.P.No.10042 of 2014 is set aside and the Mahindra Bolero, bearing Chassis No.**(*)MA1PS2GAK82H15669** and Engine No.GA84H31241 is ordered to be returned to the petitioner by way of interim custody, subject to the following conditions:-

(i).The petitioner shall furnish a bond for a sum of Rs.5,00,000/- [Five Lakhs only] to the satisfaction of the learned Judicial Magistrate, Padmanabhapuram.

(ii). The petitioner shall not alienate the vehicle and create any third party interest other than the hypothecation already created in favour of the State Bank, Nagercoil Branch.

(iii). The petitioner shall produce the vehicle before the respondent police, at 11.00 AM, on the first working day of every English Calendar month till the filing of the final report in Crime No.578 of 2013.

Sd/-
22.01.2015

(*)Amended as per order of this Court dated 18.08.2015 in MP(MD)No.1/2015.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

To be substituted to the order already despatched on 02.02.2015.

1.The Judicial Magistrate,
Padmanabhapuram.

2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

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

+1cc to Mr.C.K.M.Appaji,Advocate, SR.No.3109

ORDER MADE IN
CRL.RC.(MD)No.2 of 2015
DATED - 22.01.2015

NB
PA/02.02.15/3P/5C

PA/AMF/SAR-I/18.08.2015/3P/5C

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