



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Crl.R.C.(MD)NO.201 of 2015

Thulasi

.. Revision Petitioner

Vs.

The State represented by
Inspector of Police,
Thuvakudi Police Station
Trichy District.
Crime No.98/2015

.. Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order passed in Cr.M.P.No.1273 of 2015 on the file of the Judicial Magistrate, No.VI, Tiruchirappalli.

For Petitioner
For Respondent

:: Mr.T.Senthilkumar
:: Mr.P.Kannithevan
Government Advocate (Crl. Side)
Mr.G.R.Swaminathan
for Intervenor

ORDER

The petitioner claims to be the owner of the lorry bearing Registration No.TN 28 P 1723. The said vehicle was seized by the respondent police on the allegation that it was found carrying animals in violation of Section 11 (1)(d) of the Prevention of Cruelty to Animals Act 1960 and Section 96 of Transport of Animal Rules 1978 and Sections 428, 429 of IPC. The vehicle was thereafter produced by the respondent police before the learned Judicial Magistrate No.VI, Tiruchirappalli, who, in turn, has entrusted the same for safe custody to the respondent police. Thereafter, the petitioner filed Cr.M.P.No.1273 of 2015 seeking return of the said vehicle for safe custody under Section 451 Cr.P.C. That petition was dismissed by the learned Judicial Magistrate No.VI, by order dated 08.05.2015. Challenging the same, the petitioner is before this Court with this petition.

2. I have heard the learned counsel for the petitioner, the learned counsel for the Intervenor and the learned Government Advocate (Crl. Side) for the respondent State.



3. There is no dispute that the petitioner is the owner of the vehicle. The Hon'ble Supreme Court in *Sunderbhai Ambala Desai Vs. State of Gujarat* reported in 2003(1)CTC 175 has issued a direction that motor vehicle seized in connection with any case shall not be kept in custody by the Court or police unnecessarily and every efforts should be taken to return the same to the owner so that it could be used or otherwise parking the said vehicle for such a long time would amount to loss to the National economy. But the learned Judicial Magistrate, in this case has made the following observation:

"However, the dictum laid down by the Hon'ble Supreme Court of India is the general law of the land."

This observation of the learned Judicial Magistrate is not correct. I wish to remind the Magistrate that the law declared by the Hon'ble Supreme Court is binding on all authorities of the Country and therefore, the direction issued by the Hon'ble Supreme Court binds the learned Judicial Magistrate also. In such view of the matter, he was not right in dismissing the petition.

4. Mr.G.R.Swaminathan, learned counsel representing the Coimbatore Cattle Welfare Trust, was permitted to intervene in this matter. He would submit that the vehicle was altered to make it suitable to carry animals, which is in violation of the Motor Vehicles Act and the Rules. In my considered opinion, if that is so, the remedy for the Intervenor lies elsewhere and not in this petition. In this petition, this Court is concerned only with the safe custody of the vehicle, which is governed by the law laid down by the Hon'ble Supreme Court in *Sunderbhai Ambala Desai* case.

5. In view of the above, this Criminal Revision Petition is allowed. The impugned order of the learned Judicial Magistrate dated 08.05.2015, is set aside with the following directions:

(i) The learned Judicial Magistrate shall return the vehicle in question to the petitioner on his satisfying on the following conditions:

(a) The petitioner shall execute a bond for Rs.3 lakhs with two sureties to the satisfaction of the learned Judicial Magistrate;

(b) The petitioner shall not alter the vehicle in any manner after getting it released in his favour.

(ii) The learned Judicial Magistrate shall arrange for taking photograph of the vehicle at the cost of the petitioner and keep the same along with the case records.

(iii) The petitioner shall deposit the registration certificate of the vehicle to the Court and the same shall be returned to the petitioner on the conclusion of the trial of the case only. However, the learned Judicial Magistrate is at liberty to permit the petitioner to use the said registration certificate for temporary period for renewal purpose.



(iv) The vehicle shall not be used for any illegal purpose and if that is so used, the learned Judicial Magistrate shall be at liberty to take back possession of the vehicle.

WEB COPY

Sd/-

Assistant Registrar (Cr1.Side)

/True copy/

Sub Assistant Registrar

RR

To

1.The Judicial Magistrate, No.VI,
Tiruchirappalli.

2.The Inspector of Police,
Thuvakudi Police Station
Trichy District.

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

+1cc to MR.T.SENTHIL KUMAR, ADVOCATE IN SR NO. 26975

Cr1.R.C. (MD) NO.201 of 2015
02.06.2015

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