

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1062 of 2015

M/s.IndusInd Bank Ltd.,
having office at Nos.115 and 116,
G.N.Chetty Road,
T.Nagar,
Chennai 600 017.
Rep. by its
Manager/Executive - Legal,
Mr.P.Balavenkata Giri

... Petitioner/Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by the
Inspector of Police,
Thally Police Station,
Denkanikottai.

...1st Respondent/Respondent

2. C.Palani

... 2nd Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to set aside the order dated 28.07.2015 in Crl.M.P.No.1694 of 2015 on the file of the learned Judicial Magistrate, Denkanikottai with Cr.No.329 of 2014 on the file of the Thally Police Station, Denkanikottai and quash the order dated 28.07.2015, consequently, direct the respondents to return the vehicle to the petitioner and granting permission to the petitioner to sell the vehicle Chasis NO.MC217HRCOED292300 and fitted with Engine No.483CDED642813 and having Registration No.KA 02 - AE 2417, by public auction or on private treaty.

For Petitioner :M/s.Meera Gnanasekar

For 1st Respondent :Mr.K.Madhan,
Government Advocate

For 2n Respondent :No Appearance

O R D E R

The petitioner challenges the order of learned Judicial Magistrate, Denkanikottai, passed in CrI.M.P.No.1694 of 2015 on 28.07.2015, rejecting the petition filed for return of vehicle.

2. The respondent has seized a vehicle namely, EICHER Medium Goods Vehicle bearing Registration No.KA-02-AE-2417 belonging to the petitioner in connection with the case registered in Crime No.329 of 2014 on its file for offence under Sections 379 IPC. The petitioner Bank moved a petition in CrI.M.P.No.1694 of 2015 seeking return of the vehicle (Eicher) bearing Registration No.KA-02-AE-2417 towards selling the same by public auction or on private treaty. Such petition came to be dismissed under orders of the Court below dated 28.07.2015 as the owner's name mentioned in R.C. book and the petition was different and hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate (CrI. side) for first respondent. Learned Additional Public Prosecutor submits that so far no confiscation proceedings are initiated.

4. In the present petition, private notice has been served on the second respondent, who is the owner of the vehicle, but none appeared on his behalf. In permitting sale of vehicle, the prosecution would not be affected in any way and the appropriation of the proceeds by the second respondent would be to mutual benefit. None gain by allowing the vehicle to stand rust. For such reasons, this criminal revision petition stands allowed.

5. In the circumstances above stated and following the decisions of the Hon'ble Apex Court in *Sunderbhai Ambalal Desai v. State of Gujarat* (AIR 2003 Supreme Court 638) and *General Insurance Council V. State of Andhra Pradesh* in 2010 (3) Supreme Pg. 317, this Court directs as follows:

The EICHER Medium Goods Vehicle bearing Registration No.KA-02-AE-2417 shall be placed in the custody of the petitioner after complying with the following:

i) The lower Court shall cause photographs of the vehicle to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with.

ii)The vehicle shall then be returned to the petitioner, who shall be at liberty to deal with the same in such manner as considered appropriate.

6. The above order is not determinant of the ownership or other rights in respect of the vehicle.

7. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate, Denkanikottai passed in CrI.M.P.No.1694 of 2015 dated 28.07.2015 is set aside.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cla

To

1.The Judicial Magistrate,
Denkanikottai.

2.The Inspector of Police,
Tahilly Police Station,
ict.

3.The Additional Public Prosecutor,
High Court, Chennai.

+1cc to M/S.Meera Gnanasekar, Advocate Sr.58740

CrI.R.C.No.1062 of 2015

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