

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.06.2016

PRONOUNCED ON : 07.10.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.262 of 2015

1.The District Revenue Officer
Collectorate, Coimbatore

2.The Inspector of Police
Civil Supplies CID,
Coimbatore.
Cr.No.169 of 2013

... Petitioners

V.

1. K.Chandrasekaran
2. N.Kanagaraj

... Respondents

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the judgment dated 17.09.2014 made in Crl.A.No.44 of 2014 passed by the learned V Additional District and Sessions Judge, Coimbatore.

For Petitioners : Mr.Mohammed Riyaz, GA (Crl.side).

For Respondents : Mr.K.Selvarangan for R1.

Notice Served - No appearance for R2.

ORDER

The Criminal revision is directed against the Judgment passed by the learned V Additional District and Sessions Judge, Coimbatore made in Crl.A.No.44 of 2014 dated 17.09.2014 reversing the order passed by the District Revenue Officer, Coimbatore in Na.Ka.No.2329/2013/Ki5 dated 06.12.2013.

2.The learned Government Advocate (crl. side) appearing for the petitioners vehemently contended that the first appellate Court without application of mind and without considering the facts and circumstances, erroneously allowed the appeal filed by the first respondent. At the time of occurrence, the Registration Certificate stands in the name of the first respondent/Chandrasekaran. The said lorries involved in illegal transportation of PDS Rice and the DRO, Coimbatore rightly passed an order on 06.12.2013. Aggrieved against the said order, the first respondent preferred an appeal before the

learned V Additional District and Sessions Court, Coimbatore, the first appellate Court set aside the order passed by the DRO, Coimbatore. The learned Government Advocate (crl.side) prays to confirm the order of the DRO, Coimbatore and to set aside the order passed by the first appellate Court.

3.The learned counsel for the first respondent vehemently contended that he is the owner of the lorry and he intend to sell his lorry to one Kanagaraj/second respondent and after receiving some advance amount, he handed over the possession of the lorry, the said Kanagaraj took possession of the lorry and failed to pay the remaining balance, in search, the first respondent came to know that the lorry was seized by the Inspector of Police, CSCID, Coimbatore, for illegal transportation of PDS Rice. The DRO passed an order on 06.12.2013 dismissing the application filed by the first respondent and imposed fine of Rs.7,50,000/- in default, the lorry will be confiscated. Against the said order, the first respondent preferred an appeal before the learned V Additional District and Sessions Judge, Coimbatore, the learned first appellate Court after considering the entire facts and circumstances of the case allowed the appeal filed by the appellant therein and there is no illegality or infirmity in the order passed by the lower appellate Court and the learned counsel prays to dismiss the revision filed by the State.

4.Heard the learned Government Advocate (crl. side) appearing for the petitioners and the learned counsel for the first respondent. The petitioners produced the original CD file before this Court for perusal. Though, notice was duly served on the second respondent, there is no representation on behalf of the second respondent either in person or through any counsel.

5.Admittedly, the lorry bearing Registration No.TN 78 Y 3251 belongs to the first respondent and the Registration Certificate stands in the name of the first respondent and no endorsement has been found in the registration certificate for effecting name transfer, including the name of the Kanagaraj/second respondent. The owner of the lorry gave an advertisement in the daily newspaper Thinamalar dated 05.05.2013 to sell his lorry to one Kanagaraj. The said Kanagaraj agreed to purchase the said lorry and an agreement was entered into between the parties on 11.05.2013, the same was produced by the first respondent and in the delivery note also it is stated that the second respondent had taken possession of the lorry on 11.05.2013 and paid sum of Rs.1,50,000/- towards advance and the balance due is Rs.6,80,000/-. The said occurrence was taken place on 03.07.2013, the lorry was confiscated by the Inspector of Police, CSCID, Coimbatore for illegal transportation of PDS Rice.

6. On perusal of the original CD file produced before this Court, the FIR in Cr.No.169 of 2013 would reveal that the absconding accused are i) Nizzam @ Nizamuddin ii) Faizal @ Passing Fizal iii) Appa @ Mohammed Rafiq and iv) Sikkandar @ Pal Sikkandar @ Ottapal Sikkandar. On perusal of the FIR, the lorry was utilised by the accused with the knowledge of the lorry owner and in the FIR, nowhere, the name of the lorry owner was mentioned, only the registration numbers of the lorry was mentioned in the FIR in Cr.No.169 of 2013 dated 03.07.2013.

7. On reading of the order passed by the DRO, Coimbatore, wherein the first respondent/Chandrasekaran deposed that he purchased the lorry bearing No. TN 78 Y 3251 through hire purchase and intend to sell the lorry, for which he gave a paper publication on 05.05.2013, on seeing the advertisement, the second respondent/Kanagaraj approached the first respondent and both parties entered into an agreement on 11.05.2013, the second respondent had taken possession of the lorry on the same day and paid Rs.1,50,000/- towards advance and agreed to pay the balance Rs.6,80,000/- on or before 21.06.2013. The first respondent was in search of the second respondent for receiving balance amount, while so, the first respondent came to know that the lorry was seized by the Inspector of Police, CSCID, Coimbatore on 03.07.2013, for illegal transportation of PDS Rice. The first respondent further deposed that he has to pay the installment to the financier and hence, he approached the DRO for release of the vehicle.

8. Originally, the lorry belongs to the first respondent and he is the owner of the said lorry, the lorry was used for illegal transportation of PDS rice is without his knowledge and the occurrence had taken place after the transaction between the first respondent and the second respondent, on payment of advance, the second respondent immediately taken possession of the lorry from the first respondent on the same day. In the FIR also there is no whisper about the owner of the lorry and only the Registration numbers of the lorry were mentioned in the FIR, the names of the owner of the vehicle was also not at all mentioned in the FIR. Further, the second respondent/Kanagaraj or the driver of the lorry was not enquired on the side of the prosecution, which goes to the root of the case. This Court is of the considered view, the order passed by the learned V Additional District and Sessions Judge, Coimbatore is perfectly valid and this Court finds, there is no illegality or infirmity in the order of the first appellate Court and the same does not warrant any interference by this Court.

9.In the result, the criminal revision stands dismissed.
Consequently, connected miscellaneous petitions are closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

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To

The V Additional District and Sessions Judge, Coimbatore.
The Public Prosecutor, High Court, Madras.
MMP 22.10.2016

Pre-Delivery Order in
Crl.R.C.No.262 of 2015



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