

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2016

(Orders Reserved on : 23.09.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.1044 of 2016

Baggi @ Chinnasamy Petitioner/ Petitioner

Vs.

State Rep. by,
The Inspector of Police,
Paramathi Police Station,
Crime No.239/2016. Respondent/ Respondent

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, against the order dated 06.08.2016 passed by the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District, in Crl.M.P.No.2916 of 2016.

For Petitioner : Mr.R.Margabandhu

For Respondent : Mrs.M.F.Shabana,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order dated 06.08.2016 passed by the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District, in Crl.M.P.No.2916 of 2016, dismissing the petition filed by the petitioner under Section 451 of Cr.P.C.

2. The learned counsel for the petitioner would mainly contend that the petitioner is the owner of 26 buffaloes and 5 oxes and he purchased the buffaloes in Kathavalsai, Visagappattinam District and 5 oxes from Nellur District on 27.07.2016. The petitioner was transporting the above cattles in his private lorry bearing Registration No.TN-28-H-3463 and while the said lorry passing through Namakkal Toll Flaza, NH-45, a busy body indulging in trafficking to make money for his personal benefits intercepted the said lorry and handed over the same with cattles to the respondent police and a case was registered by the respondent police against the petitioner. The petitioner is the owner of the vehicle and buffaloes and axis and he is mainly depending upon the above said buffaloes and axis for his livelihood. The learned counsel for the petitioner also submits that the animals will be properly fed

with and the petitioner undertakes that he will not harass the above said buffaloes and axis. Hence, the 26 buffaloes and 5 axis have to be returned to the petitioner for his interim custody. But the trial Court, without considering the above fact, erroneously dismissed the petition filed by the petitioner. Hence, the learned counsel for the petitioner prayed that the order passed by the trial Court has to be set aside and the criminal revision case has to be allowed and the 26 buffaloes and 5 axis have to be returned to the petitioner for his interim custody.

3. The learned Government Advocate (Crl.Side) would contend that since the case is pending trial, the learned Magistrate, after considering the entire facts and circumstances of the case, correctly dismissed the petition filed by the petitioner. Therefore, there is no illegality or infirmity in the order passed by the trial Court and hence, the learned Government Advocate prayed that the criminal revision case has to be dismissed.

4. This Court has considered the submissions made by the learned counsel on either side and perused the records.

5. In this case, it is admitted by both sides that the present petitioner is the owner of the 26 buffaloes and 5 axis. It is also not disputed on the side of the petitioner that the present petitioner is doing milk business and for the said business, he purchased the 26 buffaloes and 5 axis. Further, the petitioner also undertakes that he will not harass the above said animals. Since the petitioner is the owner of 26 buffaloes and 5 axis, he is very much eager to maintain the above animals. In view of the above fact that the petitioner is more eager to maintain the above said animals, this Court is inclined to give a direction to the trial Court to hand over the above said animals to the petitioner with some conditions.

6. In the result, the criminal revision case is allowed and the order passed by the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District, in Crl.M.P.No.2916 of 2016, dated 06.08.2016 is set aside and the above said 26 buffaloes and 5 axis are ordered to be returned to the interim custody of the petitioner with the following conditions:-

(a) The petitioner should maintain the above said animals with proper care and protection and also the respondent police has every right to inspect the site of the petitioner where the above animals have to be kept by the petitioner;

(b) The petitioner shall execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District, and

(c) on further condition that the petitioner shall produce the above said 26 buffaloes and 5 axis as and when required by the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

Jrl

To

1. The District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District.
2. The Inspector of Police, Paramathi Police Station. Namakkal District.
3. The Public Prosecutor, High Court, Madras.

1 cc to Mr.R.Margabandhu, Advocate, Sr. 57923

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