

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.717 of 2016

Subramani ... Petitioner/Owner of Vehicle

Vs.

State by,
The Sub-Inspector of Police,
HUDCO Police Station,
Krishnagiri District.
(Crime No.372 of 2015) ... Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, praying to set aside the order dated 17.02.2016 made in Crl.M.P.No.1231 of 2016 on the file of the learned Judicial Magistrate No.II, Hosur, and return the Vehicle of Tipper Lorry bearing Registration No.KA-51-4508 to the petitioner.

For Petitioner : Mr.M.Jayachandran
For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order dated 17.02.2016 passed by the learned Judicial Magistrate No.II, Hosur, in Crl.M.P.No.1231 of 2016.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The learned counsel appearing for the petitioner would contend that the petitioner is the owner of the vehicle viz., Tipper Lorry bearing Registration No.KA-51-4508. In the said lorry, one unit sand was transported and in this case, the driver was arrested and he has given a confession statement, as per the instructions given by the petitioner. In the same vehicle, number plate was changed as TN-52-5847 instead of original registration number viz., KA-51-4508. Hence, the said lorry was seized by the respondent police on 19.06.2015 and a case was registered in Crime No.372 of 2015 for the offences under Sections 379 IPC (Sand Theft) r/w. 465 and 468 of IPC. The learned counsel for the petitioner would further contend that the trial Court has failed to see that the

vehicle was not produced before the Court, though it was said to be seized on 19.06.2015. Since the vehicle was not produced before the Court, the learned Magistrate has passed an order on 20.01.2016 in Crl.M.P.No.7033 of 2015 directing the respondent police to produce the vehicle before the Court. The petitioner has filed another petition in Crl.M.P.No.1231 of 2016 seeking for interim custody of the vehicle to him. The learned Magistrate, without considering the facts and circumstances of the case, had erroneously dismissed the said petition. Hence, the learned counsel for the petitioner prayed that the order passed by the learned Judicial Magistrate No.II, Hosur, may be set aside and the Criminal Revision Case may be allowed.

4. The learned Government Advocate (Crl.Side) would contend that in this case, the vehicle was used for transporting the sand illegally. Further, the registration number of the vehicle was changed as TN-52-5847 instead of original registration number KA-51-4508. If the vehicle will be handed over to the petitioner, definitely, he would use the same for illegal purpose. There is no illegality or infirmity in the order passed by the learned Magistrate and hence, the learned Government Advocate prayed that the revision may be dismissed.

5. On a perusal of F.I.R. itself, it is seen that the driver of the lorry has stated that they have changed the original registration number of the lorry viz., KA-51-4508 as TN-52-5847.

6. In view of the above facts and circumstances of the case, this Court is of the considered view that the petitioner has not come forward with clean hands. The learned Magistrate had rightly dismissed the petition filed by the petitioner for interim custody of the vehicle. There is no infirmity or illegality in the order passed by the learned Judicial Magistrate No.II, Hosur, and hence, the criminal revision case is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed.

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Assistant Registrar(CS VII)

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Sub Assistant Registrar

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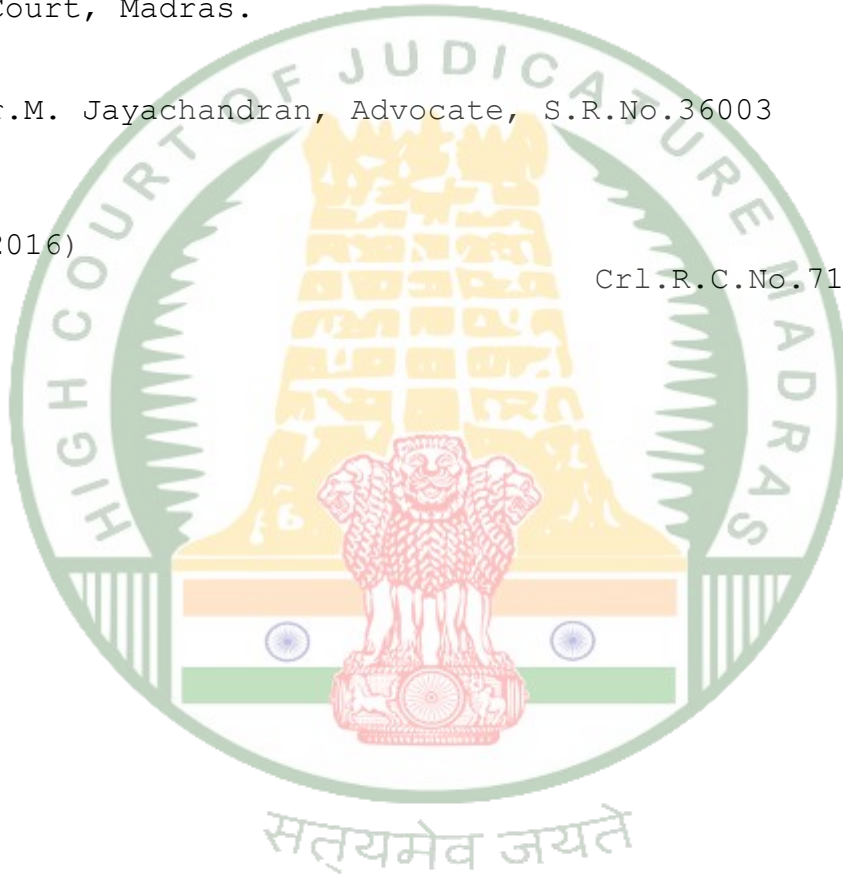
To

1. The Judicial Magistrate No.II,
Hosur.
2. The Sub-Inspector of Police,
HUDCO Police Station,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M. Jayachandran, Advocate, S.R.No.36003

ALA(CO)
EU(12/07/2016)

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