

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

(Orders Reserved on : 22.07.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.871 of 2016

D.Arunkumar ... Petitioner/De facto Complainant

Vs.

1. State rep. by
The Inspector of Police,
Town Crime Police Station,
Salem. (Crime No.42 of 2015)... 1st Respondent/Complainant

2. T.A.K.Shanmuga Selvaraj ... 2nd Respondent/Accused

Prayer: Criminal Revision Case filed under Sections 397 & 401 of the Code of Criminal Procedure, against the order dated 12.04.2016 made in C.M.P.No.No.745 of 2016 in C.P.No.2 of 2016 on the file of the Judicial Magistrate No.1, Salem.

For Petitioner : Mr.A.Thiyagarajan

For R-1 : Mr.V.Arul,
Government Advocate (Crl.Side)

For R-2 : Notice Served.
No Appearance

ORDER

This Criminal Revision Case is directed against the order dated 12.04.2016 passed by the learned Judicial Magistrate No.1, Salem, in C.M.P.No.No.745 of 2016 in C.P.No.2 of 2016, dismissing the petition filed by the revision petitioner/de facto complainant for return of case property, pertaining to Crime No.42 of 2015 in C.P.No.2 of 2016.

2. The learned counsel for the petitioner would mainly contend that the revision petitioner/de facto complainant, who is a third party, has given a complaint to the first respondent police stating that he parked his vehicle viz., Bolero Maxi Truck bearing Registration No.TN-56-C-6449 opposite to Live-o-Company gate, Agraharam, Salem, and the same was stolen by the second respondent herein/accused and he sold the same for Rs.2,00,000/- to one Jayauthien. The revision petitioner/De facto complainant has proved the ownership of the said vehicle by producing RC book, insurance and ration card copy. It is further contended that the

learned Magistrate has committed manifest error in not considering the "No Objection" given by the first respondent police for return of the property viz., cash to the revision petitioner herein. Further, the accused was added as second respondent in the petition, but he has not appeared to contest the case. In view of the above facts and circumstances, the dismissal order passed by the trial Court has to be set aside and the Criminal Revision Case has to be allowed.

3. Heard the learned Government Advocate (Cr1.Side) appearing for the first respondent.

4. Even though notice was served on the second respondent and his name is also printed in the cause list, he has not chosen to appear either in person or through counsel.

5. This Court has perused the records and the order passed by the trial Court.

6. On a perusal of the records, it is seen that the vehicle of the revision petitioner/de facto complainant viz., Bolero Maxi Truck bearing Registration No.TN-56-C-6449 was stolen by the accused and the said vehicle was sold by the accused for a sum of Rs.2,00,000/-. The first respondent police recovered the sale proceeds of that vehicle from the accused and deposited the same before the learned Judicial Magistrate No.1, Salem. On a perusal of order of the trial Court, it is seen that the learned counsel for the State has "No Objection" for returning the property to the de facto complainant. In view of the above facts and circumstances of the case, this Court is of the considered view that the order passed by the trial Court is liable to be set aside.

7. In the result, this Criminal Revision Case is allowed and the order dated 12.04.2016 passed by the learned Judicial Magistrate No.1, Salem, in C.M.P.No.No.745 of 2016 in C.P.No.2 of 2016, is set aside, and the sale proceeds of the stolen vehicle viz., Bolero Maxi Truck bearing Registration No.TN-56-C-6449 is ordered to be returned to the revision petitioner for his interim custody on production of original R.C. Book and the Insurance copy of that vehicle by the petitioner and on further condition that the petitioner shall produce the case property viz., sale proceeds of Rs.2,00,000/- before the Court as and when required by the concerned Magistrate.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate,
Fast Track Court No.I, Salem.

2. do thro the Chief Judicial Magistrate
Salem

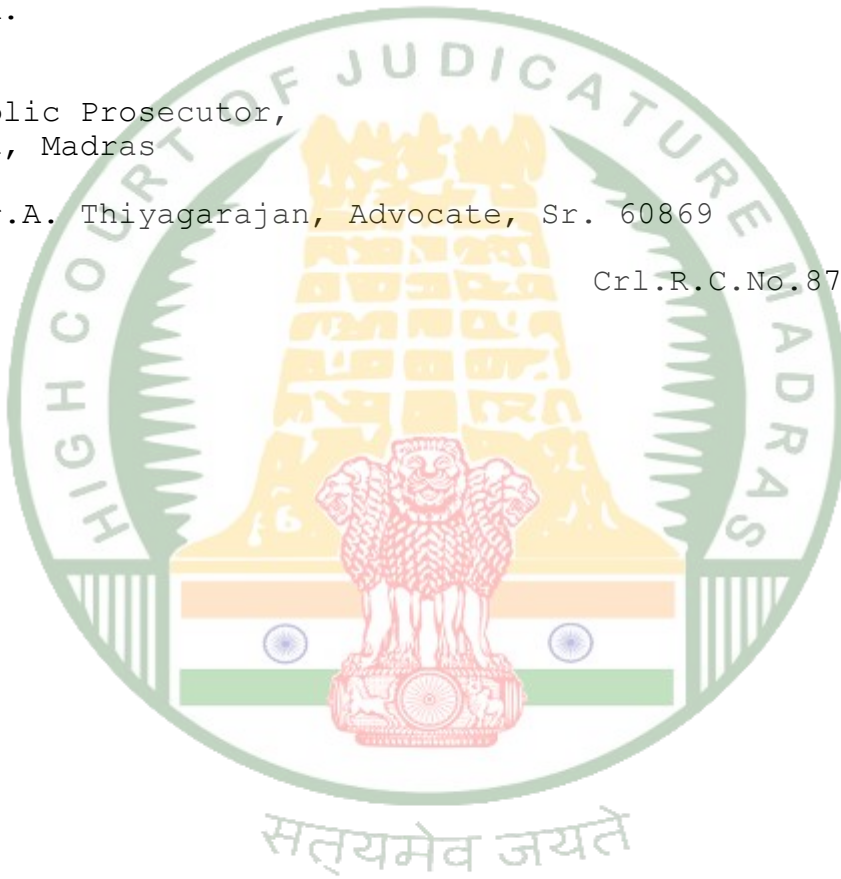
3. The Inspector of Police,
Town Crime Police Station,
Salem.

4. The Public Prosecutor,
High Court, Madras

1 cc to Mr.A. Thiagarajan, Advocate, Sr. 60869

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KSJ (CO)
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