

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016
(Orders Reserved on : 12.07.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.912 of 2016

Nataraj

... Petitioner

Vs.

State rep. by
Sub-Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu.
(Crime No.508 of 2015) ... Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, to call for the records of the order passed in C.M.P.No.1183 of 2016, dated 06.05.2016 on the file of the Judicial Magistrate No.II, Chengalpattu and set aside the same.

For Petitioner : Mr.J.Elayaraja
for M/s.Nathan and Associates

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

ORDER

This Criminal Revision Case is directed against the order dated 06.05.2016 passed by the learned Judicial Magistrate No.II, Chengalpattu, in C.M.P.No.1183 of 2016, in Crime No.508 of 2015, dismissing the petition filed by the revision petitioner for return of property i.e., TATA Indigo Passenger Car bearing Registration No.TN-12-D-0362.

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 vehemently contended that the subject matter of the property viz., TATA Indigo Passenger Car bearing Registration No.TN-12-D-0362, belongs to the revision petitioner and he has filed a petition in C.M.P.No.1183 of 2016 before the trial Court seeking interim custody of the above said vehicle and the said petition was erroneously dismissed by the trial Court. It is further contended by the learned counsel for the petitioner that the trial Court has failed to consider the fact that the

said vehicle was the only source of the petitioner's income and hence, he prayed that the order passed by the learned Judicial Magistrate No.II, Chengalpattu, may be set aside and this Criminal Revision Case may be allowed and the vehicle i.e., TATA Indigo Passenger Car bearing Registration No.TN-12-D-0362 may be returned to the petitioner.

4. The learned Government Advocate (Crl.Side) vehemently contended that since the vehicle was seized by the Investigating Officer and case was registered for the alleged offences under Sections 120(B), 147, 148, 302, 149 and 114 of IPC, the learned Magistrate, correctly dismissed the petition filed by the petitioner. There is no illegality or infirmity in the order passed by the learned Judicial Magistrate No.II, Chengalpattu, and hence, the learned Government Advocate prayed that the criminal revision case may be dismissed.

5. In this case, the trial Court had dismissed the petition filed by the petitioner on the ground that the vehicle was used by the accused at the time of commission of offence. The learned Magistrate, in his order, has stated that R.C. Book and other connected records are not available with the petitioner and hence, dismissed the petition.

6. In view of the above facts and circumstances of the case, since the revision petitioner has failed to produce any documents to show that he is the owner of the above said vehicle and the R.C.Book stands in his name, he is not entitled for return of property for his interim custody. But, during the course of argument, the learned counsel for the petitioner submitted that the petitioner is the owner of the above said vehicle and he is having sufficient materials to prove the ownership. Considering the above submission, this Court is of the view that one more opportunity has to be given to the petitioner to prove his ownership of the property and hence the order of the trial Court is liable to be set aside.

7. In the result, this Criminal Revision Case is allowed and the order passed by the learned Judicial Magistrate No.II, Chengalpattu, in C.M.P.No.1183 of 2016, on 06.05.2016, is set aside and the matter is remitted back to the trial Court for disposal according to law. The learned Judicial Magistrate No.II, Chengalpattu, is directed to give opportunity to the revision petitioner to produce the original R.C.Book etc., within a stipulate period and to pass appropriate orders, according to law, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VI)

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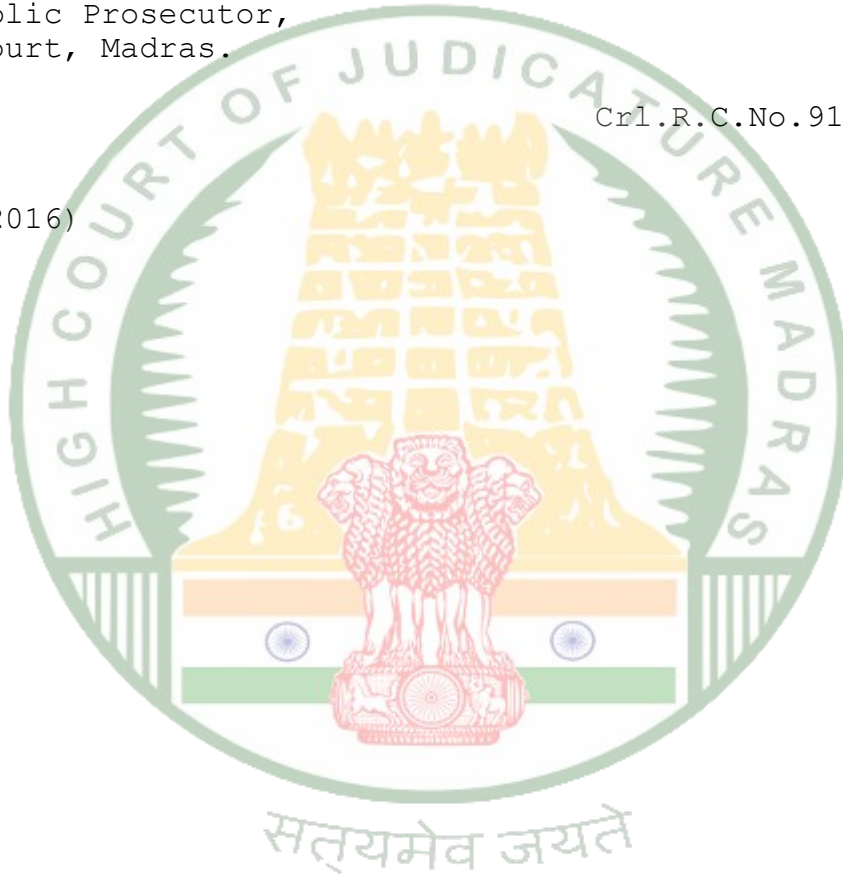
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To

1. The Judicial Magistrate No.II,
Chengalpattu.
2. The Sub-Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu.
3. The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.912 of 2016

SSI (CO)
CA(09/12/2016)



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