



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.RC (MD) No.179 of 2016

WEB COPY

Jeyakumar

..Petitioner/Petitioner

-vs-

State rep. by its,
The Inspector of Police,
CSCID, Uthamapalayam,
Theni District.

(Crime No.228 of 2015)

..Respondent/Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records of the learned Judicial Magistrate, Uthamapalayam in Cr.M.P.No.1748 of 2016 dated 09.03.2016 and set aside the order passed against the petitioner.

For Petitioner: Mr.R.Senthil Kumar

For Respondent: Mrs.S.Prabha

Govt.Advocate (Crl.Side)

O R D E R

The 3rd party has become a party in a property return petition. As his petition for return of property has been dismissed by the learned Judicial Magistrate, Uthamapalayam in Crl.M.P.No.1748 of 2016, now he is before us in this revision.

2.The Civil Supplies C.I.D. intercepted Mahindra Genio TN 67 AU 5586 carrying PDS rice bags. Rice bags as well as the vehicle were seized. Revision petitioner is the owner of the vehicle. His return of property petition was dismissed by the learned Magistrate since confiscation proceedings were initiated by the District Revenue Officer.

3.The learned counsel for the revision petitioner would submit that the petitioner is not an accused. He had let out his vehicle on hire. Without his knowledge his vehicle has been used for committing offence. If the interim custody of the vehicle is given, he will maintain it in good condition, otherwise the vehicle will be exposed to sunlight and rain and it will become a scrap value. He will also participate in the proceedings before the DRO.

4.The learned Government Advocate (Government Advocate) would submit that Confiscation proceedings has been initiated by the competent authority.

5.I have considered the rival submissions, perused the impugned order and the materials on record.

6.Although the vehicle is involved in this case still the principles laid down in *Sunderbhai Ambalal Desai v. State of Gujarat* [2003 (1) CTC 175 (SC)] can be invoked.



7. It is ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 09.03.2016, passed in Cr.M.P.No.1748 of 2016, by the learned Judicial Magistrate, Uthamapalayam, is set aside.
- iii. The learned Magistrate, will give interim custody of Mahindra Genio TN 67 AU 5586 vehicle to the revision petitioner.
- (iv) The vehicle shall be photographed. It shall be signed by the revision petitioner. It shall be kept in case records.
- v. The revision petitioner will execute a personal bond for Rs.3,00,000/- (Rupees Three Lakhs only) to the satisfaction of the said Magistrate.
- vi. There shall not be any attempt to alter or dispose of the vehicle till the property order is passed by the trial Court/DRO.

8. It is made clear that this entrustment of the vehicle is subject to the final outcome of the confiscation proceedings initiated by the competent authority. However, it will not disentitle the revision petitioner from taking appropriate action as per law, if any adverse order is passed in the said confiscation proceedings.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)

To:

1.The Judicial Magistrate, Uthamapalayam.

2.The Chief Judicial Magistrate, Theni.

3.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

4.The Inspector of Police, CSCID, Uthamapalayam,
Theni District.

+1cc to M/s.R.Senthilkumar, Advocate in SR.28236

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07.06.2016

sj

PBK/AAL-MPA/SAR-II 08/06/2016 ::2P-6C:: (IT)