



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.273 of 2016

WEB COPY

K.Kandasamy

... Petitioner / Petitioner /
Owner of the property

-vs-

State rep.by
The Inspector of Police
Achan Pudur Police Station
Thirunelveli District
(Crime No.40 of 2016)

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records in order of the learned Judicial Magistrate, Senkottai in Cr.M.P.No.2023 of 2016, by order, dated 12.04.2016 and set aside the same and grand interim custody of the paddy harvest machine bearing Engine No.KXEM-012176, Chassis No.KARTAR-3500G/E/09/0189 and color in Green to the petitioner.

For Petitioner : Mr.P.Venkatesan

For Respondent : Mrs.S.Prabha
Govt.Advocate (Crl.Side)

O R D E R

This matter is squarely covered by the Apex Court's Judgment in ***Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]***.

2. This revision arises out of dismissal of the property return petition in Cr.M.P.No.2023 of 2016, passed by the learned Judicial Magistrate, Senkottai.

3. The *de facto* complainant's son has lost his life in a Paddy Harvesting Machine. It belongs to the petitioner. He filed a petition for return of the same. It was dismissed by the learned Magistrate on the ground that it was not registered under M.V.Act and not insured.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Aggrieved, this revision has been directed by the Paddy



Harvesting Machine's owner.

5. According to the learned counsel for the petitioner, it is only a machine and not a vehicle. Thus, no such formalities are required.

6. The learned Government Advocate (Criminal Side) submitted that the said machine has been used to commit a crime. In the circumstances, the Trial Court has passed the impugned order.

7. I have anxiously considered the rival submissions, perused the impugned order and also gone through the materials on record.

8. It is a petition filed under Section 451 Cr.P.C., non-registration of vehicle or not taking insurance, if required, cannot be a ground for dismissal of the petition filed under Section 451 Cr.P.C. There is no such stipulation in **Sunderbhai Ambalal Desai** (supra). It is stated that the said machine is worth about Rs.20,00,000/-. If it is kept idle, it will become useless. Miscreants will also destroy the machine. Thus, the ratio in **Sunderbhai Ambalal Desai** (supra) squarely applies to this case.

9. In the circumstances, ordered as under:

- i. This criminal revision is allowed.
- ii. The Order, dated 12.04.2016, passed in Cr.M.P.No.2023 of 2016, by the learned Judicial Magistrate, Senkottai, is set aside.
- iii. The learned Magistrate, will give interim custody of paddy harvest machine bearing Engine No.KXEM-012176, Chassis No.KARTAR-3500G / E / 09 / 0189 and color in Green to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.20,00,000/- (Rupees twenty lakhs only) to the satisfaction of the said Magistrate.
- v. The Panchanama and the photograph, if already taken, shall be kept in the case records.
- vi. Until final property order is passed by the said Magistrate, the revision petitioner shall not dispose of, alter or change the vehicle.
- vii. The revision petitioner shall cause the production of vehicle as and when so ordered by the said Magistrate.

Sd/-

Assistant Registrar (CS-I)

/True copy/



To:

1.The Judicial Magistrate,
Senkottai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.The The Inspector of Police,
Achan Pudur Police Station,
Thirunelveli District.

+1 cc to M/s.P.Venkatesan, Advocate in SR.No.28092

krk

CSL/SKS-RR/SAR-II/14.06.2016 : 3p/5c

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