



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.314 of 2016

Raman Roadways Pvt. Ltd.,
Regd. Office at C.G. Road,
Ahmadabad, Branch Office at
Anna Nagar 12th Street, Thoothukudi,
Rep. by its SPA Holder/Manager,
P.Jaya Balakrishnan,
S/o.P.Senthur Pandey,
No.11/66, 13F, Sakthi Vijayapuram,
Thoothukudi,
Thoothukudi District.

... Petitioner/Petitioner/3rd Party

-vs-

State Rep. by :
The Inspector of Police,
Ammanaickanur Police Station,
Dindigul District.
(Crime No.94 of 2016)

... Respondent/Respondent

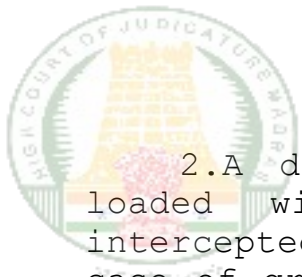
PRAYER: Criminal Revision Petition is filed, under Section 397(1) r/w 401 Cr.P.C., to call for the records in Cr.M.P.No.1105 of 2016 on the file of learned Judicial Magistrate, Nilakkottai, Dindigul District and to set aside the order dated 20.04.2016 and handover the custody of the property viz. 24.5 Tonnes of 8 M.M. Copper Wires, transported in Lorry bearing Registration No.TN-88-B-1194 remanded in R.P.R.No.32 of 2016, which has been seized by the Respondent herein in Crime No.94 of 2016.

For Petitioner: Mr.A.Thiruvadi Kumar

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

O R D E R

Inspite of the clear cut principles and guidelines laid down in **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]**, the Magistrate while dismissing the return of property petition stated reasons, which are unfounded, unsustainable and are out of the scope of Section 451 Cr.P.C.



2.A driver of the Transport Company had driven the lorry loaded with Copper Wires worth Rs.1,00,00,000/-. It was intercepted by unknown persons. They have robbed the property. A case of grave crime has been registered by the respondent police. In the course of investigation, the said property was seized. It was reported to the Court. It is now in the custody of the Court. The petitioner, the authorised agent of the owner of the property sought for return of the same by filing CrI.M.P.No.1105 of 2016.

3.The learned Judicial Magistrate, Nilakottai dismissed the said petition on the following reasoning:

"1.Investigation is pending.

2.the alleged offence are exclusively triable be Court of Sessions.

3.All the accused are not arrested. The arrested only one accused.

4.Property worth about Rs.1,00,00,000/- (One Crore).

If the court allowed the petition it will affect the case hence the petition is dismissed."

4.Exfacie, all the said reasons are irrelevant. The Magistrate has thoroughly failed to understand the scope of the petition and also the principles governing Section 451 Cr.P.C. It reflects poor view of the learned Magistrate on the basic principles relating to disposal of a property petition under Section 451 Cr.P.C.

5.In **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]**, the Hon'ble Supreme Court issued several guidelines with regard to return of properties involved in criminal cases. In fact, the Hon'ble Supreme Court has directed the Criminal Courts to dispose of the return of property petitions within a prescribed time. They were all completely disregarded by the learned Magistrate. The reasoning of the learned Magistrate is unfounded, unsustainable and quite as against law. The impugned order suffers from illegality and irregularity.

6.It is pertinent to note that the property runs to more than a Crore. Absolutely it belongs to the Company. Petitioner is its transporter. In such circumstances, asking them to keep it as it will go against their commercial interest.

7. In the circumstances, it is ordered as under:



ii. The impugned order, dated 20.04.2016, passed in Cr.M.P.No.1105 of 2016, by the learned Judicial Magistrate, Nilakottai, is set aside.

iii. The said Magistrate will give interim custody of the property viz. 24.5 Tonnes of 8 M.M. Copper Wires, transported in Lorry bearing Registration No.TN-88-B-1194 (R.P.R.No.32 of 2016) to the revision petitioner.

iv. The revision petitioner will execute a personal bond for Rs.1,00,00,000/- (Rupees One Crore only) to the satisfaction of the said Magistrate.

v. The entire property shall be photographed or videographed, and it shall be kept in the case records.

Sd/
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To:

1.The Chief Judicial Magistrate, Dindigul.

2.The Judicial Magistrate,
Nilakottai, Dindigul District.

3.The Inspector of Police,
Ammanaickanur Police Station,
Dindigul District.

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

+1cc to Mr.A.ThiruvadiKumar, Advocate in SR.No.27871

SDR/PEK/SAR II/10.06.2016/3P/6C

C.R.L.RC(MD) No.314 of 2016
03.06.2016