



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:24.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.397 of 2016

WEB COPY

M/s.Sundaram Finance Limited,
having its Office at
No.21, Pattulos Road,
having its Branch at
G.V.Complex, 11/B, Ist floor,
Kalavasal Bye-pass Road,
represented by its
Assistant Manager,
Mr.Kamalanand

...Revision Petitioner / Petitioner /
Third Party

-vs-

1.The State, represented by
The Inspector of Police,
Thirunagar Police Station,
Madurai.
(Cr.No.169 of 2011)

...First Respondent/First Respondent/
Complainant

2.K.Jayabal

...Second Respondent/Second Respondent/
Accused.

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records in CrI.M.P.No.5582 2016, dated 1.4.2016, on the file of the learned Judicial Magistrate No.VI, Madurai and to set aside the same.

For Petitioner: M/s.S.Pon Senthil Kumaran

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

O R D E R

Aggrieved by condition No.2 to 5 imposed by the learned Judicial Magistrate No.VI, Madurai in the Property Return Order passed in Cr.M.P.No.5582 of 2015, dated 01.04.2016, a third party had filed this revision.

2.One Jayabal is alleged to have cheated many persons. In <https://hdscs.ecourt.gov.in/cases/> Thirunagar Police, Madurai City registered a case in Cr.No.169 of 2011. The Investigation Officer seized Mahindra Scorpio vehicle bearing Chasis No. MAITB2BSL62L95904 and Engine



No.BS64L69727. It is stated that this car has been used by the accused for wood-winking his victims.

3.The said accused has availed of Car loan from Sundaram Finance Ltd. It is stated that he has put three visible marks on the fore-head of the Sundaram Finance Ltd. The Sundaram Finance is a third party. In CrI.M.P.No.5582 of 2015, the learned Magistrate gave interim custody of the said vehicle to Sundaram Finance, imposing the following conditions:

1.The Petitioner has to execute for himself with one another surety for sum of Rs.2,00,000/-

2.The Petitioner should produce the property as and when required by this Court.

3.The Petitioner should produce two angle photo copies of the vehicle along with C.D.

4.The property shall not be modified or altered or alienated until the disposal of the case

5.The Petitioner should be produced the vehicle before this Court on every month first Monday until further orders.

6.The original R.C.Book is with the second respondent.

Thus, it is seen that necessary precautions as advised in Sunderbhai Ambalal's Case has to be observed by obtaining Bond or photograph.

4.Now, learned Counsel for the Petitioner submits that Sundaram Finance gave him car finance. The second respondent did not pay the installments. There is mounting arrears. Sundaram Finance is put to continuous loss. It has to do its business. Further, it has the power to seize and sell the car under the Hire Purchase Agreement. The learned Counsel for the Petitioner also submit that every reasonable efforts will be taken to sell the car and the sale proceeds will be adjusted towards the dues in the account of the accused.

5.The learned Government Advocate(CrI.Side) submitted that the said accused used this car to cheat others. In the circumstances, the car has been seized by the Police.

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

7.Besides some lawyers having been victims, Sundaram Finance in one way has become a victim. The Sundaram Finance cannot be put to loss, because of the alleged wrongdoing of the accused. In the circumstances, the plight of the victim, namely, Sundaram Finance cannot be lost sight of.



8.The learned counsel for the Petitioner assured that the car will be auctioned and sold for a reasonable amount and that the said sale amount will be adjusted towards the arrears of the accused.

9.In the facts and circumstances, it is a fit case that the third party/petitioner has to be given permission to sell the car.

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

(1) This Criminal Revision is allowed.

(2) Condition Nos. 2 to 5 in the impugned order of the learned Judicial Magistrate No.VI, Madurai in CrI.M.P.No.5582 of 2015, dated 1.4.2016 are deleted.

(3)The revision petitioner is permitted to sell the Mahindra Scorpio bearing Chasis No. MAITB2BSL62L95904 and Engine No.BS64L69727 and adjust the sale proceeds towards the Car Finance Account of the Second Respondent/Jayabal/Accused.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To:

1The Judicial Magistrate No.VI,
Madurai.

2.The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police
Thirunagar Police Station,
Madurai.

+One cc to Mr.S.Pon Senthil Kumaran, Advocate, SR.No.47025

vsn

RL/5C/2P/SK/SKN/8/9/2016

C.RL.RC(MD) No.397 of 2016

24.08.2016