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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.RC (MD) No.416 of 2016

S.Shakila

... Petitioner / Petitioner /
Petitioner

-vs-

The State rep.by its
The Sub-Inspector of Police
Manamadurai Police Station
Sivagangai District
(Crime.No.742/2014)

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 and 401 Cr.P.C., to call for the records pertaining to the order, dated 02.05.2016 made in CrI.M.P.No.855 of 2016 in PR.No.26 of 2015, on the file of Additional District Munsif-cum-Judicial Magistrate, Manamadurai and set aside the order.

For Petitioner: Mr.M.Jegadeesha Pandian
For Respondent: Mrs.S.Prabha
Govt.Advocate (CrI.Side)

O R D E R

This revision arises out of dismissal of the property return petition in Cr.M.P.No.855 of 2016 in P.R.No.26 of 2015, by the learned Judicial Magistrate, Manamadurai.

2. The revision petitioner is wife of A1. A1 is used to easily win over others by sweet words. He has fooled the *de facto* complainant by purchasing certain valuable items from him, he will become a lucky man. The *de facto* complainant tried his luck, ultimately burnt his fingers, because he was cheated. Based on his complaint, a case in Crime No.742 of 2014 under Section 420 I.P.C., has been registered by the respondent as against A1 and others. In the course of investigation, the Investigation Officer nabbed A1 and his associates in a pleasure Car (TN66 L0003). The Car has been seized.

3. Admittedly, the Car stands in the name of the revision petitioner. Already interim custody of the Car has been given to her. In Cr.M.P.No.26 of 2015 the revision petitioner sought for



return of the R.C.Book and also permission to sell the Car. The learned Magistrate coming to the conclusion that this petition has been engineered by A1 through his wife, dismissed the said petition.

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4. The revision petitioner is not the accused. She has nothing to do with the alleged criminal activities of her husband. She continued to be the owner of the Car. In the facts and circumstances, the said Car will not come a case property. In fact, in the final report filed by the Police, the said Car is not figuring as a material object. Further, on reading of the confession statement and case diary, it is seen that the Car does not come out of proceeds of crime. In such circumstances, so far as the Car is concerned, the revision petitioner is a victim. Her husband not only cheated the *de facto* complainant, but also his wife. When the Car is not going to become a material object in the case keeping the Car will be against the proprietary right of the revision petitioner. Thus, the order of the learned Magistrate suffers from legality.

5. Ordered as under:

- i. The criminal revision is allowed.
- ii. The Order, dated 02.05.2016, passed in Crl.M.P.No.855 of 2016 in PR.No.26 of 2015, by the learned Judicial Magistrate, Manamadurai, is set aside.
- iii. The R.C.Book of the Car ((TN66 L0003) shall be given to the revision petitioner.
- iv. Permission is accorded to the revision petitioner to sell the Car.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate, Manamadurai.
 - 2.The Additional District Munsif cum Judicial Magistrate, Manamadurai
 - 3.The Sub-Inspector of Police, Manamadurai Police Station, Sivagangai District.
 - 4.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.M.Jegadeesh Pandian, Advocate Sr.No.32852
krk
AA/GSV-PM/SARA-II/29.06.2016/2p-6c

CRL.RC(MD) No.416 of 2016
24.06.2016