



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Cr1.RC(MD) No.446 of 2016

Sakthivel

... Petitioner/Petitioner/3rd Party

-vs-

1.State

rep.by Inspector of Police
Manamelkudi Police Station
Pudukkottai District
(Cr.No.114 / 2016)

... 1st Respondent / Complainant

2.Selvanayagam

(R2 is impleaded vide order
dated 15.07.2016, passed in
Cr1.M.P.(MD) No.5711 of 2016)

...2nd Respondent/De facto 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, Aranthangi, in Cr.M.P.No.3248 of 2016 and set aside the order, dated 07.06.2016.

For Petitioner : Mr.D.Ramesh Kumar

For Respondents : Mrs.S.Prabha

Govt. Advocate (Cr1.Side) for R1

Mr.M.Suresh for R2

O R D E R

The revision petitioner, who is the father of the accused, aggrieved by the dismissal of his property return petition in Cr.M.P.No.3248 of 2016, by the learned Judicial Magistrate, Aranthangi, has directed this revision.

2. It is alleged that on 29.05.2016, at North Ammapattinam, the accused, who is the revision petitioner's son attempted on the life of the second respondent's son, namely, Surrender, by running over a Car (TN01 AP8853). On the complaint of the second respondent, Manamelkudi Police registered a case in Crime No.114 of 2016, under Section 307 I.P.C.

3. The Police seized the said Car (TN01 AP8853). It has become the case-property. The father of the accused filed Cr1.M.P.No.3248 of 2016 for interim custody of the Car to him.

4. The learned Judicial Magistrate, Aranthangi, dismissed his petition since investigation is pending and the Car has been used in the commission of the offence.



5. Aggrieved, Sakthivel has directed this revision.

6. According to the learned counsel for the petitioner, investigation is over. Even it is not over, that cannot be a ground to refuse to give him interim custody of his Car.

7. The learned Government Advocate (Criminal Side) submitted that in this case the Car is an important case-property, because the said Car has been used to commit the offence. Based on the requisition of the Investigation Officer, the Motor Vehicle Inspector inspected the Car and his report is awaited.

8. According to the learned counsel for the second respondent / de facto complainant, if the Car is given, an important physical evidence will be lost.

9. I have considered the submissions of the leaned counsels and perused the impugned order and also the materials on record.

10. The son of the revision petitioner is alleged to have involved his father's Car in this case. The Car had two previous owners. The present owner is Sakthivel. His is entered in the R.C.Book. So, he is the registered owner of the Car. The Car has been inspected by the Motor Vehicle Inspector. So, inspection is over. Report will be submitted by him in due course. On account of non-receipt of M.V.I's report, taking of decision in the property return petition cannot be deferred.

11. In the facts and circumstances, the principles laid down by the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat* [2003 (1) CTC 175(SC)] squarely applies to this case.

12. In the circumstances, the impugned order passed by the learned Judicial Magistrate, Aranthangi, is unsustainable.

13. In view of the foregoing, ordered as under:

- i. This revision is allowed.
- ii. The Order, dated 07.06.2016, passed in Cr.M.P.No.3248 of 2016, by the learned Judicial Magistrate, Aranthangi, is set aside.
- iii. The learned Magistrate, will give interim custody of the Car (TN01 AP8853) to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.2,00,000/- (Rupees two lakhs only) to the satisfaction of the said Magistrate. It is made clear that no property document, Solvency Certificate from Tahsildar or surety shall be insisted upon.
- v. R.C.Book and connected vehicle documents shall be returned to the revision petitioner.
- vi. A photograph of the said Car and the R.C.Book with the signature of the revision petitioner shall be kept in the case records.
- vii. Until final property order is passed by the Trial Court, the revision petitioner shall not dispose of, alter or change the said Car.
- viii. The revision petitioner shall also give an undertaking



affidavit to the said Court to the effect that he will not dispose the Car in any way, until final order is passed. However, by filing proper application, he can seek permission of the Court to carry out repairs in the said Car.

xi. The revision petitioner shall cause the production of the said Car as and when so ordered by the Court.

Sd/

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To:

- 1.The Judicial Magistrate,
Aranthangi.
- 2.The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.D.Ramesh kumar, Advocate, SR.No. 36993

+1CC to M/S.M.Suresh, Advocate, SR.No. 36973

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15.07.2016

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AM/NGM.MP/SAR-III/20.07.2016/3P/6C