

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 18.07.2016****CORAM:****THE HONOURABLE Dr.JUSTICE P.DEVADASS****Crl.R.C. (MD)No.488 of 2016**

Arunkumar

... Petitioner

Vs.

The State Rep.by
The Sub Inspector of Police,
Nagamalai Pudukkottai Police Station,
Madurai.
Crime No.293 of 2016

... Respondent

Prayer: Criminal Revision Petition is filed under Section 397 r/w 401 Cr.P.C., calling for the records pertaining to Crl.M.P.No.2746 of 2016 on the file of the Judicial Magistrate No.VI, Madurai and set aside the 5th condition imposed in Crl.M.P.No.2746 of 2016 dated 20.06.2016 on the file of the Judicial Magistrate No.VI, Madurai.

For Petitioner : Mr.R.Pon Karthikeyan
For Respondent : Mr.P.Kandasamy, Govt.Advocate (Crl.side)

ORDER

The de facto complainant in a criminal case aggrieved by certain portion of the conditions imposed by the learned Judicial Magistrate No.VI, Madurai in ordering the return of property / vehicle in Crl.M.P.No.2746 of 2016 has directed this revision.

2.Heard both sides. Perused the impugned order and the materials on record.

3.The revision petitioner is the de facto complainant. It is stated already that he has suffered by the criminal act committed by the accused persons, now by certain onerous conditions imposed upon him by the Court, he has to suffer still further.

4.The de facto complainant is the owner cum driver of the TATA India Car TN 58 AL 1191. He used to wait for passengers near Mattuthavani bus stand in Madurai. The accused have booked the car at Madurai for going to Sholavandan. The de facto complainant was happy. But it was short lived. Near Kochadai, his passengers

have become robbers. They have stabbed him and left him in lurch and took the car with them.

5. Based on the complaint of the car driver, Nagamalai Pudukkottai Police has registered a case in Crime No.293 of 2016 under Sections 394 and 397 IPC. In the course of investigation, the said car has been seized by the Police. It was produced before the learned Judicial Magistrate. The car was remanded in RPR No.252 of 2016.

6. In the circumstances, the de facto complainant, filed CrI.M.P.No.2746 of 2016 for interim custody of the car to him. He was given interim custody. However, he was aggrieved by the following conditions imposed by the learned Magistrate.

"2. The petition mentioned TATA India car TN 58 AL 1191 should be produced before this Court on every first working day of a month until further order.

5. The original R.C. book should be produced before the Court"

7. The petitioner is not an accused. Actually he is a victim. Already he has been victimized by the crime committed against him. Again he is being victimized by the said conditions.

8. He is a single car owner. He is not going to run away with the car. He has to eke out his livelihood by running the car. Directing him to produce the car on a particular day every month before the Court certainly will cause him much hardship. He will lose his one day income. And by imposing such a condition no purpose also would be served. This condition is superfluous.

9. Under condition No.5, petitioner has been asked to produce the original R.C. book of the car. In property return petitions, frequently, we are coming across this kind of condition imposed by the learned Magistrates.

10. R.C. book is an important vehicle document. It is needed for several purposes, such as to pay road tax, insurance premium, for F.C., to claim damages, repair charges from the insurance company, to claim damages for property damage in M.C.O.P. claim cases, for vehicle finance, either from a private financier or from a bank. And when the vehicle was plying on the road, traffic police or other police may demand production of R.C. book. So possession of R.C. book by the car owner is very important. In vehicle finance, the Financier used to keep the original R.C. book and he will return it only when his dues are settled.

11. Now in this case, actually for the petitioner condition No.5 is difficult to comply. The reason being the petitioner has availed of car finance from a private financier. The R.C. book is with the financier. As per the Magistrate's order, petitioner has to produce the original R.C. book to have interim custody of the car. There is possibility that the financier will not give the R.C. book to the petitioner to produce it before the Court unless

all his dues are cleared.

12.In the facts and circumstances, the said condition appears to be onerous. Further, in the facts and circumstances, this kind of condition is not necessary, when especially condition No.1 that the petitioner has to execute a bond for Rs.3 lakhs itself is suffice. Thus while returning vehicles such unnecessary conditions need not be imposed by the learned Magistrates.

13.In this view of the matter, condition Nos.2 and 5 are deleted as unnecessary from the property return order passed by the learned Judicial Magistrate No.VI, Madurai in Crl.M.P.No.2746 of 2016. Accordingly, this revision is disposed of.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Principal Sessions Judge, Madurai.

2.The Judicial Magistrate No.VI, Madurai.

3.The Chief Judicial Magistrate, Madurai.

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

5.The Sub Inspector of Police,
Nagamalai Pudukkottai Police Station, Madurai.

+1 cc to M/s.R.Pon Karthikeyan, Advocate in SR.No.37318

nbg

CSL/AAL-MPA/22.07.2016 :3P/7C

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18.07.2016