



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.RC(MD) No.595 of 2016

WEB COPY

Petchimuthu

... Petitioner / Petitioner/
Vehicle Owner

-vs-

The State, represented by the
Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar District.
(In Crime No.193 of 2016)

... Respondent /Respondent/
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., calling for the records relating to the order dated 16.6.2016, passed in Cr.M.P.No.5691 of 2016, on the file of the learned Judicial Magistrate Court, Rajapalayam and to set aside the same as illegal and entrust the custody of the trailer to the Petitioner and to allow the above revision as prayed for.

For Petitioner: M/s.R.Gandhi

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

O R D E R

The revision Petitioner aggrieved by the dismissal of his Property Return Petition in Cr.M.P.No.5691 of 2016 by the learned Judicial Magistrate, Rajapalayam, has directed this revision.

2.In connection with Crime No.193 of 2016 registered by the Thalavaipuram Police station, Virudhunagar District, as against one Sethu and five others, for having taken sand without permission, two trailers namely, TN 62 60 2606 and Sumt 160 Feb.2016 have been seized by the Police.

3.The revision petitioner filed Cr.M.P.No.5691 of 2016, stating that before TN 60 2606 could be registered, it was seized by the Police and purchased the Sumpt 160 Feb.2016 from Selvaraj and necessary entries were also made in the RC Book and thus sought for interim custody of these vehicles.



4.The learned Judicial Magistrate, Rajapalayam rejected his petition holding that there was no proper vehicle documents with regard to one vehicle and with regard to the other, while it is in Court custody, the transfer was effected.

5.The very same contentions have been reiterated here also by the learned counsel for the Petitioner.

6.The very same objections that has been reiterated here by the learned Government Advocate(Crl.Side).

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

8.The vehicle T.N.60 2606 was seized by the Thalavaipuram Police and it was produced before the Court. However, the vehicle owner Selvaraj transferred it to the revision petitioner. With regard to this, no case has been registered against Selvaraj. Now instead of Selvaraj, Petchimuthu has become its owner. The vehicle has to be preserved from being ruined and becoming a scrap value. Sunderbhai Ambalal Desai .vs. State of Gujarat(2003 (1) CTC 175(SC)), applies here.

9.The second vehicle, has been purchased by the revision Petitioner. He has produced the purchase bill also. He did not steal the vehicle from any one. Admittedly, it was not registered. Admittedly, it was seized by the Thalavaipuram Police before it was registered. De-hors registration, the revision petitioner is the owner of the vehicle. Here also Sunderbhai Ambalal's case applies.

10.In view of the above, it is ordered as under:

(1)This revision is allowed.

(2)The impugned order passed by the learned Judicial Magistrate, Rajapalayam in Cr.M.P.No.5691 of 2016, dated 16.06.2016 is set aside.

(3)The revision petitioner shall be given interim custody of the vehicles TN 60 2606 and Sumt 160 Feb.2016.

(4)The Petitioner shall execute a personal bond for a sum of Rs.75,000/-(Rupees seventy five thousand only) to the satisfaction of the learned Judicial Magistrate, Rajapalayam. No property documents or Solvency Certificate shall be insisted upon.

(5)Both the vehicles should be photographed and signed by the revision petitioner.

(6)The revision petitioner shall produce the vehicles before the Court as and when so ordered by the trial Court.

Sd/-

Assistant Registrar (CSII)



To:

1.The Judicial Magistrate,
Rajapalayam.

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

3.The Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar District.

+1cc to M/s.R.Gandhi, Advocate SR.No.48062

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vsn

SD/PV/14.09.2016/3P/5C