



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.R.C.(MD) No.609 of 2016

Samidurai

... Petitioner / Petitioner /
Owner of the vehicle

-vs-

State rep.by
Inspector of Police
Melur Police Station
Crime No.500 of 2015

... Respondent / Respondent /
Complainant

PRAYER : Criminal Revision Petition is filed, under Sections 397 and 401 Cr.P.C., to call for the records relating to the impugned order of the learned Judicial Magistrate, Melur, passed in Crl.M.P.S.R.No.7124 of 2015, dated 10.05.2016, set aside the same and consequently direct the respondent Police to handover the petitioner's vehicle bearing registration number TN65 Y2104.

For Petitioner: Mr.R.J.Karthick

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

O R D E R

An alleged vehicle owner, having aggrieved by the return of his property return petition by the learned Judicial Magistrate, Melur, has directed this revision.

2. Melur Police, in Crime No.500 of 2015, registered a robbery case under Section 395 I.P.C. In this connection, the Investigation Officer seized a Lorry (TN65 Y2104). Now, it is stationed in the Police Station. It has become a case-property. Seizure has been reported to the learned Magistrate, Form-95 also has been submitted to the Court and R.P.Number also has been assigned. In the circumstances, the revision petitioner sought for interim custody of the said vehicle by filing a petition under Section 451 r/w 457 Cr.P.C.

3. The learned Judicial Magistrate, Melur, on 10.05.2016, passed the following order:
<https://hccasesecourt.gov.in/forfiles>

"On perusal of records, it is seen that no such vehicle bearing registration No.TN65 Y2104



has been seized by the Police. Hence, file along with required documents in proof of seizure."

4. The grievance of the revision petitioner is that even without numbering the property return petition and adjudicating the issue, the learned Magistrate has refused to take the petition on file, in other words refused to exercise his judicial discretion.

5. Unlike the inherent jurisdiction of the Court under Section 482 Cr.P.C., the revisional jurisdiction of the Court under Sections 397 and 401 Cr.P.C., is limited. It is limited to the extent of scrutinizing the legality, propriety, regularity of any order, sentence, judgment passed by an inferior Court / Subordinate Criminal Court.

6. Now, in this case, there is a great force in the submissions of the learned counsel for the revision petitioner that even without taking the property return petition on file and adjudicating the issue, the learned Magistrate passed the impugned Order. Therefore, the outright return of the property return petition is unsustainable in law.

7. In view of the foregoings, ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 10.05.2016, passed in CrI.M.P.SR.No.7124 of 2015, by the learned Judicial Magistrate, Melur, is set aside.
- iii. Within ten days from the date of receipt of the original documents from this Court, the revision petitioner shall represent the original property return petition before the learned Judicial Magistrate, Melur, who will take it on file and assign C.M.P.Number and after hearing both sides will pass orders in accordance with law.

Sd/
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

To:

1.The Registrar (Judicial), Madurai Bench of Madras High Court, Madurai. **(Registrar (Judicial) will return the original property return petition together with the necessary enclosed papers to the revision petitioner forthwith.)**

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Judicial Magistrate,
Melur.



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

4.The Inspector of Police
Melur Police Station.
Melur.

+1CC to M/S.R.J.Karthick, Advocate, SR.No. 49438

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01.09.2016

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