



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.8 of 2016

WEB COPY

Mani

... Petitioner / Petitioner

-vs-

1.The Sub Inspector of Police,
Eraniel Police Station,
Kanyakumari District.

2.K.G.Krishnamani,
The District Secretary,
Society for Prevention of Cruelty of Animals,
Kanyakumari District,
Kanyakumari.

... Respondents/Respondents

R2 is impleaded as per the order of
this Hon'ble Court by VSRJ on 26.04.2016
and made in Crl.M.P.(MD) No.2340 of 2016 in
Crl.R.C.(MD) No.8 of 2016.

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order dated 09.12.2015 made in CMP No.6797 of 2015 passed by the learned Principal District Munsif cum Judicial Magistrate, Eraniel, and set aside the same.

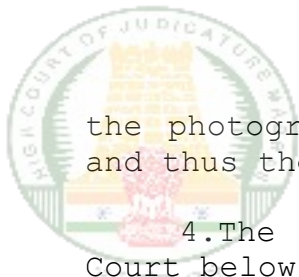
For Petitioner	:	Mr.R.Russel Raj
For 1 st Respondent	:	Mr.S.Prabha Govt.Advocate (Crl.Side)
For 2 nd Respondent	:	Mr.G.R.Swaminathan for M/s.T.Antony Arul Raj

O R D E R

Mani, the revision petitioner canvases the correctness of the order of the learned Judicial Magistrate, Eraniel in dismissing his return of property petition in Crl.M.P.No.6797 of 2015.

2.A four wheeler carrying two oxen and 14 cows from Melapalayam to Palliyadi in Kanyakumari District was stopped. A criminal case was booked under the provisions of Prevention of Cruelty to Animals Act, 1960 and Transport of Animals Rules, 1978. The cattle were handed over to Brindavan Goshala at Thozhicode. The accused who claimed to be owner of the cattle filed property return petition before the Judicial Magistrate, Eraniel. The learned Magistrate dismissed the petition on the ground that whether they were taken for slaughter or dairy purpose has to be seen at the time of trial and now they are being maintained in a Goshala.

3.Now, the learned counsel for the petitioner raised the very same contention raised before the Judicial Magistrate, Eraniel. He would also submit that certificate has also been issued that they were taken for dairy purpose and not for slaughter. Even as per the provisions they can transport not less than 16 cattle. He would also submit that the upkeep of the cattle is not as expected in Goshala as one of the cow is dead. Thus, there is danger to the life of others. He also submitted that the petitioner would take care of them well. The learned counsel also shows



the photographs of the cattle to show that they were all milch animals and thus they will not be slaughtered.

4.The learned Government Advocate would support the order of the Court below.

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5.The learned counsel for the 2nd respondent representing SPCA would submit that in the facts and circumstances, if the cattle were entrusted to the custody of the revision petitioner, they will no longer exist as they are intended for slaughtering. They will be killed for their meat. In this connection he would submit that the Hon'ble Supreme Court in Criminal Appeal Nos.283 to 287 of 2002 dated 22.02.2002 (STATE of U.P. VS MUSTAKEEM & Others) held that custody of the animals should not be given when there are allegations that they are taken for slaughter. He would also submit that a learned Single Judge of this Court in Crl.R.C.No.505 of 2013 dated 27.07.2015 (S.MURALIDHARAN VS. NAGARAJ) also took a similar view.

6.I have anxiously considered the rival submissions of the learned counsels and perused the impugned order and also the materials on record.

7.Protecting the life and the safety of the animals is very important. SPCA is duty bound to protect them. If the cows are taken for milk purpose that cannot be prevented. On the other hand if it is taken for maiming them, injuring them, killing them and slaughtering them that should be prevented. Animals also are our nation's wealth. We are sorry to hear that one of the cattle has lost its life. Now, the life of 15 cattle is hanging. In the cited decision the Hon'ble Apex Court, expressed its anxiety to protect the animals from such danger. Allegations are also made in the F.I.R. that the accused had taken them for slaughtering. Now, we cannot take the risk. We are not prepared to hand over the cows to the revision petitioner. Necessary orders have been passed by the trial Court for the upkeep of the cattle.

8.In view of the above, this revision fails and it is dismissed.

Sd/

Assistant Registrar(Cs-II)

/True Copy/

Sub Assistant Registrar.

To:

- 1.The Chief Judicial Magistrate,Nagercoil.
 - 2.The Principal District Munsif - cum - Judicial Magistrate, Eraniel.
 - 3.The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court, Madurai.
 - 4.The Sub Inspector of Police,Eraniel Police Station,
Kanyakumari District.
- +1CC to M/S.R.Russel Raj, Advocate, SR.No. 28417
+1CC to M/S.T.Antony Arul Raj, Advocate, SR.No. 28845

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