

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.11.2017

Pronounced on : 17.11.2017

Coram:

The Hon'ble Dr.Justice G.Jayachandran

Crl.R.C.No.1333 of 2017

P.Jenitta mary .. Petitioner

/versus/

The Superintendent of Police,
CBI/ACB Chennai
in Cr.No.RC(6A)/2017

... Respondent

Criminal Revision Case is filed under Section 397 of the Criminal Procedure Code r/w Section 401 of the Criminal Procedure Code praying to set aside the order of the II Additional District Judge(Spl.Court for CBI Cases) Coimbatore in Crl.M.P.No.1803 of 2017 dated 28.09.2017 and pleaded to order returning of the property namely the Innova Car bearing Regn.No.TN 46 S 1234, to the interim custody of the petitioner, by allowing the Criminal Revision Petition.

For Petitioner :Mr.E.P.Pradeesh

For Respondent :Mr.K.Srinivasan,
Spl.P.P. For CBI Cases

O R D E R
सत्यमेव जयते

The revision petitioner herein is the wife of the accused Franklin Prakash.

2. The case against the accused Franklin Prakash is that he is a Junior Account Assistant in Southern Railway, Salem and had embezzled Professional Tax collected from the Employees to the tune of Rs.1.38 crores, which ought to have been remitted into the account of the local body. The said Franklin Prakash has diverted the money into various account including the account of the petitioner herein, who is none other than his wife. Earlier, the case has been registered by the Railway Police, later, transferred to CBI and RC6(A)/2017 CBI/ACB/Chennai, on 13.03.2017. The vehicle, which is now sought to be returned,

stands in the name of the petitioner herein. However, the investigation indicates that the vehicle was purchased by the accused Franklin Prakash in the name of his wife from out of the proceeds of crime. Hence, the vehicle has been seized. The petitioner herein has approached the trial Court seeking custody of the vehicle bearing Regn.No.TN 46 S 1234. The said petition has been opposed by the respondent on the ground that the Innova Car bearing Regn.No.TN 46 S 1234 had been purchased by the accused for Rs.8 lakhs from out of the embezzled money. The petitioner, who is the School Teacher, had no enough source to purchase the Innova car. Therefore, the Innova car, which has been purchased from embezzled money to be put in to the auction and deposited into the account of the Southern Railway, Salem. The trial Court has accepted the plea and dismissed the petition.

3. Aggrieved by the said dismissal order, the present revision petition is filed on the ground that, the relief sought for by the petitioner herein only interim custody of the vehicle bearing Regn.No.TN 46 S 1234, since it is exposed the rain and chain causing depreciation of the vehicle. If the investigation reveals that it is proceeds of crime, then the seizure ought to have been done in accordance with law, as contemplated under Section 102 and 105 (e) of the Criminal Procedure Code. The prosecution has not followed any of the procedure, as contemplated under the above provision of law. Hence, the petitioner herein is entitled for interim custody of the vehicle.

4. The learned Special Public Prosecutor for CBI cases appearing for the respondent submitted that, on registration of the crime and in the course of the investigation, the vehicle was seized and appropriate process is under way to put the vehicle into auction. However, till the said proceeding is completed, the vehicle may be returned to the owner of car on cash security equivalent to the value of the vehicle.

5. On considering the submission made by the learned counsel appearing for the petitioner as well as the learned Special Public Prosecutor for CBI cases appearing for the respondent, it appears that till now the prosecution has not taken steps for forfeiture of the property on the ground that the said property had been unlawfully acquired and it is proceeds of crime. Therefore, under this circumstances, till such proceedings initiated by the respondent, it is appropriate to hand over the interim custody of the vehicle to the owner of the vehicle on condition:

(i)The owner of the vehicle shall surrender the original R.C.Book of the Innova Car bearing Regn.No.TN 46 S 1234 in the Court along with cash deposit of Rs.8,00,000/-(Rupees eight lakhs only).

(ii)On such deposit, the trial Court is directed to return the vehicle bearing Regn.No. TN 46 S 1234, after obtaining an undertaking that he/she will not alter the physical feature of the vehicle bearing Regn.No.TN 46 S 1234.

(iii)The owner of the vehicle will hand over the vehicle bearing Regn.No. TN 46 S 1234 as and when required by the Court.

Accordingly, this Criminal Revision Case is allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
CBI/ACB Chennai,

2.The Special Public Prosecutor for CBI Cases,
High Court, Madras.

+2 ccs to Mr.E.P.Pradesh Advocate sr 81862

Crl.R.C.No.1333 of 2017

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