

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

Criminal Revision No.1049 of 2016
in
C.M.P. No. 2665 of 2016
&
Crl. M.P.No. 8900 of 2016

Blue Cross of India
Rep by its General Manager,
Mr.Dawn Williams,
No.72, Velachery Main Road,
Guindy, Chennai – 32.

... Petitioner

Vs.

1. Mr.Govindasamy,
S/o.Perumal,
Neelakoundanpatti Village,
Kalvimanthiyam Post,
Dindugal District.

2. The Inspector of Police,
Mappedu Police Station,
Thiruvallur.

3. Jaya Karthick, S/o.Jayapal

... Respondents

Prayer : Criminal Revision Petition filed under Section 397 r/w Section 401 of Cr.P.C. against the order of Learned Judicial Magistrate No.2, Thiruvallur in C.M.P.No.2665 of 2016 in Crime No.308 of 2016 dated 08.08.2016 ordering to return 30 buffalo claves to the 1st respondent herein.

For Petitioner : Mr.B.Shyam

For Respondents : Mr.L.Margaur (For R1)

Mr.R.Sekar (For R2)
Government Advocate (Criminal Side)

O R D E R

This revision case has been filed against the order passed by the Judicial Magistrate -II, Thiruvallur in C.M.P.No.2665 of 2016 in Crime No.308 of 2016 dated 08.08.2016.

2. The said case was registered under Section 11 (1) (d) of Prevention of Cruelty to Animals Act, 1960 read with Sections 428 and 429 IPC and Section 96 of the Transport of Animals Act, 1978 and Section 8 of Tamil Nadu Animals Preservation Act 1958. The 2nd respondent, during routine vehicle check up, intercepted a lorry with the load of buffalos, which were transported in violation of the said provisions of the Acts mentioned above. The 2nd respondent therefore seized the cattles and they were placed under the custody of the petitioner.

3. During the pendency of the case before the Court below, the owner of the cattle had moved petition in C.M.P.No.2665 of 2016, where he has claimed that he is the owner of the cattle and he has purchased those cattle from the chandy and he has also produced

receipts for such purchase. It was also the case of the owner of the cattle that he was transporting the said cattle for nurturing them and not for any other purpose.

4. Considering these submissions made by the owner of the cattle, the Court below had allowed the petition and given him interim custody of the cattle. As against the said order dated 08.08.2016 giving interim custody, the petitioner has moved the present revision on the ground that already the said cattle were entrusted to the petitioner i.e. Blue Cross of India and these cattle are now in their custody. While so, it was suddenly directed by the Court below to entrust the custody of the cattle to the owner without even hearing the petitioner.

5. It is the apprehension of the petitioner that once the cattle are entrusted to the custody of the owner, certainly he would kill them for meat and it is not for the purpose of nurturing them and therefore in the interest of the cattle the custody of the cattle should remain only with the petitioner and therefore the order permitting the owner to get interim custody of the cattle, impugned in the revision, is unjustifiable.

6. Heard the learned counsel appearing for the petitioner and the 1st respondent as well as the learned Government Advocate appearing for the respondents.

7. Mr.R.Sekar, learned Government Advocate has, in fact, produced the final order passed in the said case i.e. in Crime No. 308 of 2016, by the Court below.

8. According to the said order dated 11.08.2016, i.e. 3 days after the present impugned order, since all the accused persons in the said case had pleaded guilty they have been convicted. By recording the earlier order of interim custody dated 08.08.2016 i.e. the present impugned order of the Court, custody of the cattle were permanently directed to be given to the owner.

9. It is also seen from the records that as against the said final order, admittedly, no appeal has been preferred by anyone including the petitioner herein.

10. Since the order dated 11.08.2016 has become final and

the same has not been challenged, the petitioner cannot have any grievance over the interim custody granted by the Court below, by the order impugned in this Revision.

11. Once the final order has been passed and the order of interim custody has been made absolute and the same is in operation as of now, the present revision as against the order which was passed as an interim measure is not at all maintainable.

12. Therefore, for all these reasons, this Court feels that this revision cannot be entertained at this juncture especially in view of the final order having been passed in this regard on 11.08.2016. Accordingly, the revision fails and therefore, the same is dismissed.

28.07.2017

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Index : Yes/No

Internet : Yes/No

Speaking /Non-speaking order

To

1. The Inspector of Police,
Mappedu Police Station,
Thiruvallur.
2. The Judicial Magistrate No.2,
Thiruvallur.

R.SURESH KUMAR,J

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