

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Cr1.O.P No.29510 of 2010
and
M.P.No.1 of 2010

V.Dhanammal

... Petitioner

vs.

1.The Superintendent of Customs,
(Prosecution), Custom House,
Chennai - 600 001.

2.The Commissioner of Customs (Airport),
Air Cargo Complex, Airport,
Meenambakkam,
Chennai - 600 027.

.... Respondents

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to direct the learned Additional Chief Metropolitan Magistrate, E.O. II, Egmore, Chennai - 600 008, the learned Judicial Magistrates, Poonamallee Court, Saidapet Court and Alandur Court under the supervision of District Judges of Chengleput and Kancheepuram to trace and search for the bundle relating to the case of the petitioner's son in R.R.No.297 of 1986 on the file of the Additional Chief Metropolitan Magistrate E.O.II, Egmore, Chennai - 600 008 and to order for the return of the original of the Sale Deed dated 02.06.1970 registered as Document No.2260/1970 at the office of the Sub Registrar, Sembium submitted by the petitioner's husband as surety in connection with release of his son in M.P.No.784 of 1986 in R.R.No.297 of 1986.

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For Petitioner : Mr.M.Abdul Nazeer

For Respondents : Mr.P.Govindarajan
Addl. Public Prosecutor

JUDGMENT

This criminal revision petition is preferred by the petitioner of her son seeking to direct the learned Additional Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai, Judicial Magistrate Court, Poonamallee, Saidapet and Alandur under the supervision of the District Judges of Chengleput and Kancheepuram to search for the bundle relating to the case R.R.No.297 of 1986 on the file of the Additional Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai of her son and to order for the return of the original of the sale deed dated 2.6.1970 registered as document No.2260 of 1970 at the office of the Sub Registrar, Sembium submitted by the petitioner's husband as surety in connection with the release of his son in M.P.No.784 of 1986 in R.R.No.297 of 1996.

2.Brief case of the petitioner:

The facts of the case is that the petitioner's son was arrested in O.S.No.1191 of 1986 RD by the Superintendent of Customs, Customs House, Chennai on 9.2.1986 in connection with the seizure of 4 Nos. of Gold bits valued of Rs.1,15,708/- from one Mr.Rajendran @ S.Elango, holder of Indian Passport No.X 010914 issued at Trichy on 13.12.1984 who arrived as a passenger from Singapore on 9.2.1986 at Chennai Airport. Petitioner's son was arrested for an alleged offence under section 135 of the customs act 1962 (Act 52 of 1962) at 4.00 PM on 10.12.1986 and he was produced before the Learned Additional Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai in R.R.No.297 of 1986 and remanded to judicial custody. The learned magistrate ordered to release petitioner's son on bail as per the bail order made in M.P.No.784 of 1986 and directed him to deposit a sum of Rs.3,000/- as cash security and it was paid vide receipt No.81478 dated 12.12.1986. In addition to the above cash security, petitioner's son was ordered to furnish surety for the like sum for his release on bail. Accordingly, petitioner's husband stood as the surety and produced his original sale deed dated 2.6.1970 in the office of the Sub Registrar, Sembium in respect of the property situated at Kodungaiyur before the Learned Magistrate. While he was on bail, petitioner's son was also detained under COFEPOSA and his detention order was quashed by this Court as per its order made in W.P.No.9171 of 1987 reported in 1988 Law weekly (criminal) 383 and after the detention order was quashed, petitioner's son filed a petition for bail once again and bail was restored and he was also released from prison. The original sale deed produced by petitioner's husband at the time of furnishing surety was not returned to him but ordered to be retained by the Court.

3.The learned counsel for the petitioner's submits that petitioner's husband expired on 12.9.2000 and in need of the above original sale deed dated 2.6.1970 and also filing with the legal heir ship certificate issued by the Tahsildar so as to prove that petitioner is the one of the legal heir of deceased husband. The encumbrance certificate in respect of the above property is also stands in the name of petitioner's husband name.

4.The learned counsel for the petitioner submits that the detention order was quashed by this Court, but the criminal complaint has not been tried by the jurisdictional Court. Due to the failure to serve the summons, my son could not appear before the trial Court. Taking advantage of the Economic offences (inapplicability of the limitation) Act 1974 in respect of the economic offences, the criminal complaints are filed belatedly resulting in severe hardship to the accused as well as the sureties. The lower Courts are duty bound to keep the original sale deed in safe custody and to preserve the case records properly. Non prompt action was taken to return the original sale deed to the surety.

5. The learned counsel for the petitioner submits that the registered original sale deed furnished by the petitioner's husband for the release of his son on bail ought to have been preserved by the Court and ought to have been ordered to be returned to the surety after substantial lapse of time from the date of occurrence of the offence.

6.The learned Additional Public Prosecutor opposed the prayer of the petitioner and contended that the petitioner may approach the concern forum.

7.I heard Mr.M.Abdul Nazeer, learned counsel for the petitioner and Mr.P.Govindarajan, learned Additional Public Prosecutor for the respondents and perused the entire materials available on record.

8.In the case on hand, the original sale deed registered as document No.2260 of 1970 dated 2.6.1970 at the office of the Sub Registrar, Sembium submitted by the petitioner's husband as surety in connection with the release of his son in M.P.No.784 of 1986 in R.R.No.297 of 1996 on the file of the learned Additional Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai was not returned and the same was missing in the bundle.

9.Considering the case of the petitioner, I am inclined to allow the petition for returning the documents pending before the learned Additional Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai.

10.In the result, this criminal original petition is allowed and the original sale deed registered as document No.2260 of 1970 dated 02.06.1970 at the office of the Sub Registrar, Sembium submitted by the petitioner's husband as surety in connection with the release of his son in M.P.No.784 of 1986 in R.R.No.297 of 1996 on the file of the learned Additional Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai has to be returned within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Chief Metropolitan Magistrate
E.O.II, Egmore, Chennai - 600 008.

2.The Judicial Magistrate,
Poonamallee.

3.The Judicial Magistrate,
Saidapet.

4.The Judicial Magistrate,
Alandur.

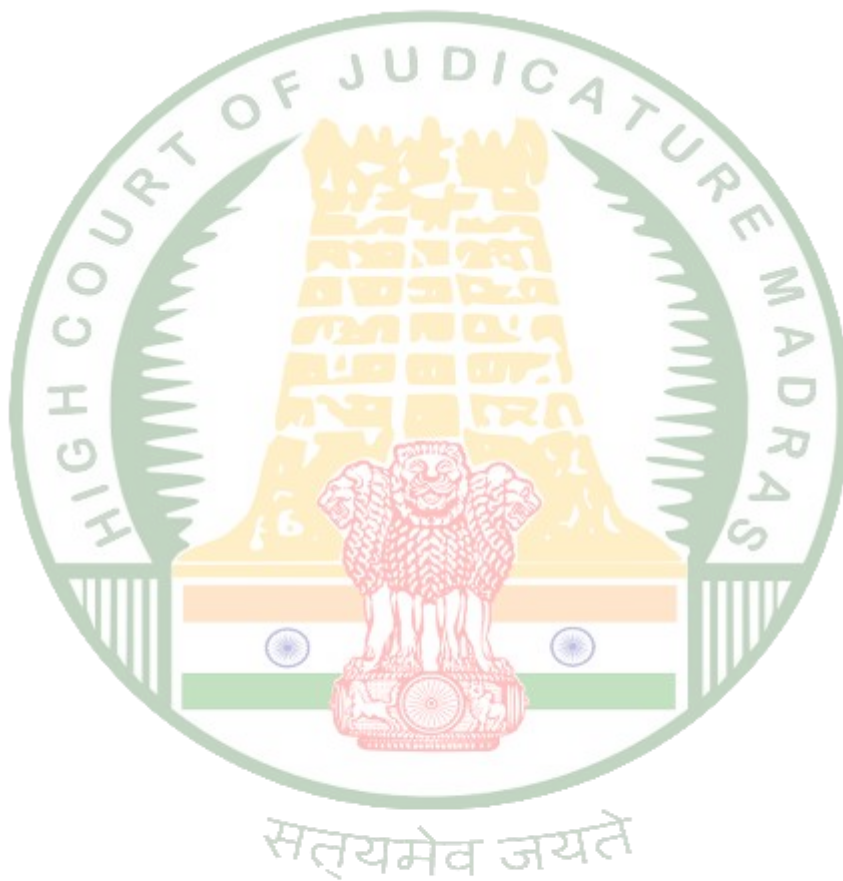
5.The Principal District Judge,
Chengalpattu.

6.The Superintendent of Customs
(Prosecution)Custom House, Chennai-1.

7.The Commissioner of Customs (Airport)
Air Gargo Complex Airport,
Meenambakkam, Chennai-27.

Crl.O.P No.29510 of 2010
and
M.P.No.1 of 2010

srg 21/03/2019



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