IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.03.2017
CORAM
THE HONOURABLE MR. JUSTICE R.MAHADEVAN
Crl.O.P.No.25511 of 2016
and
Crl.MP.No.12397 of 2016

Kaliyaperumal ... Petitioner

Vs

State through the
Station House Officer
Forest Range Officer
Ulundurpet. ... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order passed in Crl.RC No.42 of 2015 dated 22.03.2016 on the file of the learned Principal Sessions Judge, Villupuram, confirming the order in Crl.MP.No.6580A of 2015 on the file of the learned Judicial Magistrate No.II, Ulundurpet and direct to return the petitioner Mahindra Tractor and Trailer registered No.TN31 AY 8856, Engine No.NAEW9880 Chassis No.NAEW9880 in Crime No.106 of 2015 on the file of the respondent police.

For Petitioner : Mr.S.Sarath Chandran
For Respondent : Mr.C.Emalias, APP

ORDER

This Criminal Original Petition has been filed to set aside the order dated 22.03.2016 passed by the learned Principal Sessions Judge, Villupuram in Crl.RC No.42 of 2015, confirming the order dated 19.11.2015 passed by the learned Judicial Magistrate No.II, Ulundurpet in Crl.MP.No.6580A/2015 and consequently, direct to return the vehicle viz., Mahindra Tractor and Trailer bearing registration No.TN31 AY 8856, Engine No.NAEW9880 Chassis No.NAEW9880, which was seized in connection with Crime No.106 of 2015 on the file of the respondent police, to the petitioner.

2. The case of the petitioner is that on 05.09.2015, he was arrested along with one Paneerselvam on the allegation that they have illegally transported sand from the forest. At that time, an unnumbered vehicle viz., Mahendira Tractor along with trailer was also seized. Subsequently, a case in Crime No.106 of 2015 was registered against them for the alleged offences punishable

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under Section 5 r/w 21(d)(f) of the Tamil Nadu Forest Act. Thereafter, the petitioner filed a petition in Crl.MP.No.6580A/2015 seeking return of the vehicle. By order dated 19.11.2015, the said petition was dismissed by the learned Judicial Magistrate No.II, Ulundurpet. Challenging the said order, he preferred a revision in Crl.RP No.42/2015, which was also dismissed, by order dated 22.03.2016 by the learned Principal Sessions Judge, Villupuram. Aggrieved over the same, the petitioner is before this Court with the present petition.

3. Learned counsel for the petitioner submitted that the vehicle bearing Regn.No.TN31 AY 8856 Engine No.NAEW9880, Chassis No.NAEW9880 belonging to the petitioner is a vehicle seized by the respondent in connection with Cr.No.106 of 2015. However, without properly verifying the same, the trial court as well as revisional court have dismissed the petition filed by the petitioner for return of the vehicle. Learned counsel further submitted that the petitioner is an agriculturist. Due to seizure of the vehicle, he is unable to do his agricultural work.

4. On the other hand, learned Additional Public Prosecutor submitted that the vehicle seized by the respondent is an unnumbered one and the same does not belong to the petitioner. Therefore, both the courts below have rightly dismissed the petition.

5. Heard the rival submissions made on either side and perused the materials placed before this Court.

6. A reading of the orders impugned herein would reveal that both the courts below have dismissed the petition filed for return of the vehicle on the ground that as the number plate of the vehicle was not available, it could not be identified as the vehicle belonging to the petitioner. It is the specific case of the petitioner that he is the owner of the vehicle in question, whereas, the same is refuted by the respondent police. This Court is of the view that though the number plate was not available, the vehicle could be identified with the help of Engine and Chassis numbers. Therefore, in order to give quietus to the issue involved herein, this Court is inclined to remand the matter to the trial court for verification and fresh consideration.

7. Accordingly, this Criminal Original Petition is allowed by setting aside the order dated 22.03.2016 passed by the learned Principal Sessions Judge, Villupuram, in Crl.RC No.42 of 2015 confirming the order dated 19.11.2015 passed by the learned Judicial Magistrate No.II, Ulundurpet in Crl.MP.No.6580A of

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2015. The matter is remanded back to the learned Judicial Magistrate No.II, Ulundurpet, who, in turn, shall employ an officer to inspect the vehicle in question and verify its Engine and Chassis numbers and thereafter, pass appropriate orders, with regard to the return of the vehicle to the petitioner, on merits and in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Judicial Magistrate No.II, Ulundurpet.
2 do thro The Chief Judicial Magistrate, Villupuram District
3.The Principal Sessions Judge, Villupuram.
4 State thorough the
Station House Officer
Forest Range Officer
Ulundurpet.
5.The Public Prosecutor, High court, Madras-104.

+1cc to Mr.S. Sarath Chandran, Advocate, S.R.No.16169

Ev(CO)
md(20/03/2017)

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