



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2017

(Orders Reserved on 18.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.RC(MD)Nos.213 and 268 of 2017

1.P.Ayyanar : Petitioner in Crl.RC(MD)No.213/2017

2.Karuppiah : Petitioner in Crl.RC(MD)No.268/2017

Vs.

1. State through represented by
The Inspector of Police,
Solavandan Police Station,
Sholavanthan
Madurai District
(Crime No.406 of 2014) : 1st Respondent in both the Revisions.

2.Karuppaiah : 2nd Respondent in Crl.RC(MD)
No.213/2017

3.P.Ayyanar : 2nd Respondent in Crl.RC(MD)
No.268/2017

Prayer Crl.RC(MD)No.213/2017: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the entire records pertaining to the order dated 15.02.2017 in Cr.M.P.No.589 of 2017 in R.P.R.No.06/2017 by the learned District Munsif and Judicial Magistrate, Vadipatti and set aside the same by allowing this Revision.

Prayer Crl.RC(MD)No.268/2017: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records relating to the order passed in Cr.M.P.No.588 of 2017 in Crime No.406 of 2014, dated 15.02.2017, on the file of the District Munsif cum Judicial Magistrate, Vadipatti and to set aside the same, as illegal.



For Petitioner : Mr.M.Kannan
[In CrI.R.C.No.213 of 2017
and for 2nd Respondent in
In CrI.R.C.No.268 of 2017]

WEB COPY

For Petitioner : Mr.N.Satheesh Kumar
In CrI.R.C.No.268 of 2017
and for 2nd Respondent
In CrI.R.C.No.213 of 2017.

For 1st Respondent : Mr.A.Ramar
Additional Public Prosecutor
(In both the Revisions)

COMMON ORDER

These Criminal Revision Petitions have been filed praying to set aside the order, dated 15.02.2017, passed in Cr.M.P.Nos.589 and 588 of 2017 respectively in R.P.R.No.06 of 2017, by the learned District Munsif-cum-Judicial Magistrate, Vadipatti. The petitioner in CrI.R.C(MD)No.213 of 2017 is the defacto complainant in Crime No.406 of 2014 and the petitioner in CrI.R.C(MD)No.268 of 2017 is the defacto complainant in Crime No.405 of 2014, on the file of the respondent Police. The petitioner in CrI.R.C(MD)No.268 of 2017 is arrayed as 2nd respondent in CrI.R.C(MD)No.213 of 2017 and the petitioner in CrI.R.C(MD)No.213 of 2017 is arrayed as 2nd respondent in CrI.R.C(MD)No.268 of 2017.

2. By consent of both parties, the main Criminal Revision Petitions are taken up together for final disposal, at the admission stage itself.

3. The sum and substance of the case is that in both the Revisions, the petitioners claimed ownerships of a same vehicle viz., Tractor, bearing Registration No.TN-59-AS-9816. The 2nd respondent in CrI.R.C(MD)No.213 of 2017 has preferred a complaint before the 1st respondent on 04.12.2014, alleging that he owned a Kubota Company Tractor, bearing Registration No.TN-59-AS-9816, for his agricultural purpose and the petitioner had stolen the original R.C.Book of the said vehicle and thereby forging his signature, the petitioner changed the ownership of the vehicle in his favour. As a result, the case in Crime No.405 of 2014 against the petitioner in CrI.R.C(MD)No.213 of 2017, has been registered, under Sections 379 and 460 of IPC., Likewise, the petitioner in CrI.R.C(MD)No.213 of 2017 has preferred a counter complaint against the 2nd respondent on 04.12.2014 alleging that he has purchased the vehicle in question, for a valuable sale and it was stolen by the 2nd respondent. As a result, the 1st respondent registered a case in Crime No.406 of 2014 against the 2nd respondent.



4. Both the Revision Petitioners filed Petitions in Cr.M.P.No.588 of 2017 and Cr.M.P.No.589 of 2017 respectively before the learned District Munsif-cum-Judicial Magistrate, Vadipatti, seeking interim custody of the vehicle viz., Tractor, bearing Registration No.TN-59-AS-9816, remanded in R.P.R.No.6 of 2017, in Crime No.406 of 2017 before the said Court. Both the applications were filed under Sections 451 Cr.P.C., for returning the vehicle in question, as interim custody, from the Court, were heard by the learned District-Munsif-cum-Judicial Magistrate, Vadipatti and dismissed the same, as per a common order, dated 15.02.2017. Aggrieved by that order, the present Revision Petitions have been preferred before this Court.

5. I have heard the learned counsel appearing for the Revision Petitioners and also perused the materials on record.

6. The main contention of the 2nd respondent in Cr1.R.C.No.213 of 2017 is that the R.C.Book relating to the vehicle in question was stolen by the petitioner herein by forging the signature of the 2nd respondent.

7. The learned Additional Public Prosecutor appearing for the first respondent in both the Revisions, on instructions, would submit that the Deputy Superintendent of Police, Samayanallur Circle, Madurai District, in order to ascertain whether the signature of the 2nd respondent found in Cr1.R.C(MD)No.213 of 2017, in the disputed R.C.Book has been forged or not, sent the signatures of both the petitioner and the 2nd respondent, for final opinion, to the Deputy Director, Regional Forensic Laboratory, Madurai, vide his letter dated 22.08.2016, who in turn, sent a Report, dated 08.03.2017 holding that the 2nd respondent had transferred the ownership of the vehicle viz., the Tractor, bearing Registration No.TN-59-AS-9816, in favour of the petitioner herein and the signatures found in the R.C.Book belongs to the 2nd respondent herein.

8. Because rival claims have been made, without enquiry into the same, the Court cannot simply dismiss the property return statement. If there is a case, there will be a counter case, but there should be a Judicial order deciding the disputed matter / rival claim.

9. In the case on hand, the rival claim of the ownership on the basis of the R.C.Book in respect of the vehicle viz., Tractor, bearing Registration No.TN-59-AS-9816 is held on examination of the signature of the 2nd respondent found in the R.C.Book belongs to the 2nd respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

10. Considering the above facts and circumstances of the case and the Report of the Deputy Director, Regional Forensic



Laboratory, Madurai and also considering the Judgment of the Hon'ble Supreme Court in **Ambalal Desai Vs. State of Gujarat** reported in **[2003 (1) CTC 175 (SC)]**, this Court is inclined to hold that the 2nd respondent transferred the ownership of the vehicle in favour of the petitioner in Crl.R.C(MD)No.213 of 2017, by signing the R.C.Book and the claim of ownership of the petitioner is proved and hence, the petitioner in Crl.R.C(MD) No.213 of 2017 is entitled to the interim custody of the vehicle, viz., the Tractor, bearing Registration No.TN-59-AS-9816.

11. In the result, the Criminal Revision Petition in Crl.R.C(MD)No.213 of 2017 is allowed and the Petition in Crl.R.C (MD)No.268 of 2017 stands dismissed and the order dated 15.02.2017, passed in Cr.M.P.No.589 of 2017 in R.P.R.No.06/2017, by the learned District Munsif and Judicial Magistrate, Vadipatti, is set aside. The learned District Munsif-cum-Judicial Magistrate, Vadipatti, is directed to give interim custody of the vehicle viz., the Tractor, bearing Registration No.TN-59-AS-9816, to the petitioner, which has been remanded by the respondent in R.P.R.No.6 of 2017, in Crime No.406 of 2017 on his file, on the following conditions;-

(i) The petitioner in Cr.M.P.No.589 of 2017 is directed to execute a bond for a sum of Rs.3,00,000/-, (Rupees Three Lakhs only) to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Vadipatti, who in turn, is directed to give interim custody of the vehicle in question to the petitioner.

(ii). Panchanama is to be executed by the petitioner in the presence of the respondent in respect of the said vehicle.

(iii). The Original R.C.Book is to be handed over to the learned District Munsif-cum-Judicial Magistrate, Vadipatti.

(iv). Photographs of the vehicle in question has to be taken in different angles, at the cost of the petitioner herein.

(v). The petitioner should not alter or alienate the vehicle, till the disposal of the case.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1. The District Munsif and Judicial Magistrate,
Vadipatti.

2. The Inspector of Police,
Solavandan Police Station,

<https://hcservices.hccourts.gov.in/hcservices/>

Madurai District.



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4. The Record Keeper,
Vernacular Section
Madurai Bench of Madras High Court.

+2CCS to Mr.N.Satheesh Kumar, Advocate in SR.No.70511,70512

MPK

AE/SV AAM/SAR1/09.08.2017/5P/7C

Pre-Delivery Order made in
Cr1.RC(MD)Nos.213 and 268 of 2017
Dated:- 03.08.2017