



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.RC(MD)No.267 of 2017

and

CRL MP(MD)No.2363 of 2017

Orders Reserved on 12.04.2017

M.Saroja : Appellant/Petitioner/ 3rd Party

Vs.

State of Tamil Nadu Rep. By its
The Inspector of Police,
Aravakurichi Police Station,
Karur.

Crime No.64 of 2015. : Respondent / Complainant

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records in S.C.No.39 of 2016 on the file of the Mahila Fast Track Court, Karur dated 22.10.2016 insofar as seizure of the Maruthi Omni vehicle, bearing Registration No. TN-47-AD-1845 and set aside the same, consequently, direct the custody of the vehicle to the petitioner.

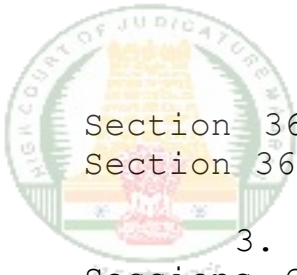
For Petitioner :Mr.K.P.S.Palanivel Rajan

For Respondent :Mr.P.Kandasamy
Government Advocate(Crl. Side)

O R D E R

This Criminal Revision has been filed praying to set aside the order made in S.C.No.39 of 2016, on the file of the Mahila Fast Track Court, Karur dated 22.10.2016, insofar as seizure of the Maruthi Omni vehicle, bearing Registration No. TN-47-AD-1845, and set aside the same and consequently, direct the custody of the vehicle to the petitioner.

2. The petitioner herein is a 3rd party to the Criminal Case in S.C.No.39 of 2016, on the file of the Mahila Fast Track Court, Karur, in which, A1, A2 and A4 were convicted for the offence under Section 366 IPC.; A2 was convicted for the offence under Section 366 IPC.; A1 was convicted for the offence under section 506 (i) of IPC.; A1 to A4 and A6 were acquitted from the charges under Sections 120(b) IPC.; A3 was acquitted from the charge under



Section 366 of IPC. and A6 was acquitted from the charge under Section 368 of IPC., by its Judgment, dated 22.10.2016.

3. The petitioner is not an accused in the above said Sessions Case. In that case one Maruthi Omni vehicle, bearing Registration No. TN-47-AD-1845, which was given as interim custody to the petitioner herein by the learned Judicial Magistrate No.2, Karur, as per order, dated 15.04.2015 in Cr.M.P.No.2093 of 2015 and thereafter, by the trial Court / Mahila Fast Track Court, Karur, as per its order dated 19.09.2016 in C.M.P.No.326 of 2016 in S.C.No.39 of 2016. At the time of pronouncing the Judgment in S.C.No.39 of 2016 on 02.10.2016, the learned Sessions Judge, has passed the impugned property order in respect of M.O.1, (TN-47-AD-1845 Maruthi Omni Van) directing to be confiscated to the Government after the expiry of the appeal period or after disposal of the appeal, if preferred. The Sessions Court, Karur, issued Memorandum, dated 22.10.2016, directing the petitioner to hand over M.O.1 / Maruthi Omni Van, which was given to the petitioner on interim custody, to the Court, since the said vehicle was confiscated to the Government by its Judgment and the said vehicle was also handed over to the Sessions Court, Karur. Aggrieved by that order, the petitioner / 3rd party filed the present Revision before this Court for the aforesaid relief.

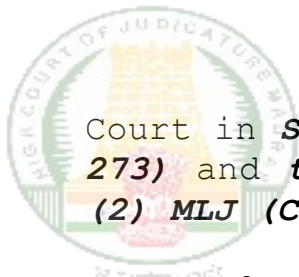
4. I have perused the materials available on records and also heard the rival submissions advanced by either side.

5. Admittedly, the petitioner is the owner of the said vehicle, which is said to be used for the commission of offence under Section 366 of IPC., by the Accused Nos.1, 2 and 4. Interim custody of the said vehicle was given to the petitioner during the pendency of the trial of the case also. The accused in this case did not claim either ownership or custody from the inception, till the conclusion of the trial. The Registration Certificate for the said vehicle stands in the name of the petitioner, as the owner of the vehicle. Original R.C.Book was also deposited while the interim custody of the said vehicle was ordered in favour of the petitioner.

6. On perusal of the Judgement of the trial Court, the Omni Van / M.O.1 was seized by the respondent Police under Ex.P12 / seizure Mahazar by P.W.1 / Inspector of Police. It is alleged that the said vehicle has been used by A1, A2 and A4 for the commission of offence of abducting P.W.2. Except the petitioner no one or the accused in the criminal case claimed ownership or custody over M.O.1 / Omni Van. It is well established that the property by which or for which an offence has been committed, has ultimately to go to its real owner.

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

7. The learned counsel appearing for the petitioner, in support of his contention, has relied on the decisions of this



Court in **Selvam & Another Vs. State** reported in **(2012-1-L.W. (Cr1.) 273)** and **the Judgment in Nandakumar Vs. State** reported in **(2015 (2) MLJ (Cr1.) 526)**.

8. In the above stated circumstances, this Court is inclined to set aside the order, dated 22.10.2016 in S.C.No.39 of 2016 passed by the learned Sessions Judge, Mahila Fast Track Court, Karur, insofar as a portion of the Judgment, declaring M.O.1 / Omni Van confiscated to the Government after expiry of the period of appeal or disposal of the appeal, if filed.

9. In the result, the Criminal Revision is allowed by setting aside the order, dated 22.10.2016 in S.C.No.39 of 2016 passed by the learned Sessions Judge, Mahila Fast Track Court, Karur, insofar as a portion of the Judgment, declaring M.O.1 / Omni Van confiscated to the Government after expiry of the period of appeal or disposal of the appeal, if filed and consequently, directs the trial Court / Mahila Court, to hand over the vehicle, bearing Registration No. TN-47-AD-1845, to the petitioner, for its custody even an appeal is pending against the Judgment of the trial Court or appeal is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd /-

ASSISTANT REGISTRAR (RTI)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Additional District Judge,
The Mahila Fast Track Court, Karur.
- 2.The Inspector of Police,
Aravakurichi Police Station, Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

COPY TO:

The Record Keeper,
Criminal Section (Record),
Madurai Bench of Madras High Court, Madurai.

+1 CC TO MR.K.P.S.PALANIVEL RAJAN, ADVOCATE, SR NO.67597

Mpk

MAS/SKN-RSK/SAR3:26.07.2017:3P-6C

Order made in
Cr1.RC (MD) No.267 of 2017

Dated:-

24.07.2017