



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2017

( Orders Reserved on 30.10.2017)

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.780 of 2017

Y.John Joseph

: Petitioner

Vs.

The State  
Rep.by Inspector of Police,  
Meignanapuram Police Station,  
Thoothukudi District  
(Crime No.136 of 2017)

: Respondent

PRAYER: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to allow this Criminal Revision Petition by setting aside the order passed in Cr.M.P.No.7584 of 2017 by the learned Judicial Magistrate, Sathankulam, dated 18.09.2017.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.C.Mayilvahana Rajendran  
Additional Public Prosecutor

ORDER

This Criminal Revision Petition has been filed praying to set aside the order passed in Cr.M.P.No.7584 of 2017, by the learned Judicial Magistrate, Sathankulam, dated 18.09.2017.

2. The Criminal Revision is taken up for final hearing, in the admission stage itself, with the consent of the learned counsel appearing on either side.

3. The petitioner herein has given a written complaint before the respondent Police in respect of theft of his Auto bearing Registration No.TN-69-AT-8923 [APE City Auto] on 05.09.2017, and the complaint, dated 06.09.2017, was registered by the respondent Police in Crime No.136 of 2017, dated 06.09.2017, for of the offence under Section 379 IPC., against unknown



persons. The respondent Police has seized the said Auto, bearing Registration No.TN-69-AT-8923 and remanded to the learned Judicial Magistrate, Sathankulam in P.R.No.204 of 2017 and the said auto now is in custody of the respondent Police.

4. The petitioner claims the ownership upon the seized vehicle and has filed an application in Cr.M.P.No.7584 of 2017 before the learned Judicial Magistrate, Sathankulam, for return of the vehicle in question, as interim custody, during pendency of the investigation and the said petition was dismissed by the learned Judicial Magistrate on 18.09.2017. Aggrieved by the order of dismissal, the present criminal Revision is preferred by the petitioner herein for the aforesaid relief.

5. The learned counsel appearing for the petitioner states that the petitioner is the owner of the vehicle and based on his complaint, FIR has been registered and the said vehicle is not involved in any crime and the seized vehicle has been exposed to sun and rain and day-by-day lose its originality as well as its value and there is no impediment in granting interim custody of the seized vehicle in view of the guidelines laid down by the Hon'ble Apex Court in Sundarbhai Ambalal Desai Vs. State of Gujarat reported in (2003 (1) CTC 175).

6. The learned Additional Public Prosecutor appearing for the respondent has not submitted any written objections in respect of the relief sought for in this revision. He further submitted that the owner of the said seized vehicle is the petitioner herein and on whose complaint, the FIR was registered and is pending for investigation.

7. The learned counsel appearing for the petitioner has filed a copy of Registration Certificate Book of the vehicle in question, which stands in the name of the petitioner, for perusal of this Court.

8. On perusal of the impugned order passed by the learned Judicial Magistrate, Sathankulam, shows that no valid reason has been assigned for retaining the vehicle under the custody of the Court. The reasons assigned in the impugned order is also against the dictum laid down by the Hon'ble Apex Court in Sundarbhai Ambalal Desai's case. It is also not denied that the seized vehicle has been exposed to sun and rain and day-by-day it lose its originality as well as its value. There is no rival claim in respect of the seized vehicle. The petitioner is entitled to get the interim custody of the vehicle in question, as owner of the vehicle.

9. Considering the above facts and circumstances of the case, this Court is inclined to allow this Revision. Accordingly, this Criminal Revision is allowed by setting aside the impugned



order passed in Cr.M.P.No.7584 of 2017, by the learned Judicial Magistrate, Sathankulam, dated 18.09.2017 and the interim custody of the vehicle is ordered on the following conditions:-

(i). The learned Judicial Magistrate, Sathankulam, is directed to give interim custody of the vehicle viz., Auto, bearing Registration No.TN-69-AT-8923 [APE City Auto], to the revision petitioner on his execution of a personal bond for Rs.1,00,000/- (Rupees One Lakh Only) to the satisfaction of the learned Magistrate and on production of the authenticated copy of the original R.C.Book in respect of the above vehicle standing in the name of the petitioner herein.

(ii). The said vehicle shall be photographed in different angles, at the cost of the petitioner herein and shall be kept in the case records.

(iii). Proper Panchanama is to be prepared before handing over the production of the vehicle.

(iv) Until final property order is passed by the said Magistrate in this case, the Revision petitioner shall not dispose of or alter and change the vehicle and

(v) The petitioner shall cause production of the vehicle, as and when ordered by the concerned Magistrate.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate, Sathankulam.
2. The Chief Judicial Magistrate, Tuticorin.
- 3.The Inspector of Police, Meignanapuram Police Station, Thoothukudi District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.G.Thalaimutharasu, Advocate, SR.No. 84243

Cr1.RC(MD)No.780 of 2017

Dated:-

22.12.2017