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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.875 of 2017

M.Jayaguru

: Petitioner / Petitioner

Vs.

State through
The Inspector of Police,
Vasudevanallur Police Station,
Sivagiri Taluk,
Tirunelveli District.
(Crime No.65 of 2016)

: Respondent / Respondent

PRAYER: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records relating to the orders passed in Cr.M.P.No.4058 of 2017, dated 12.09.2016, on the file of the learned Judicial Magistrate, Sivagiri and set aside the same and consequently directing the learned Judicial Magistrate, Sivagiri to deliver the vehicles, Tractor and Trailer, bearing Registration No.TN-76-Z-5076 and TN-78-Z-5077 respectively along with its Original Registration Certificate Books to the petitioner so as to enable him to alienate the Tractor and Trailer.

For Petitioner : Mr.C.Susi Kumar

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

ORDER

This Criminal Revision Petition has been filed praying to set aside the orders passed in Cr.M.P.No.4058 of 2017, dated 12.09.2016 by the learned District Munsif-cum-Judicial Magistrate, Sivagiri and consequently directing the learned Magistrate to deliver the vehicle viz., Tractor and Trailer, bearing Registration No.TN-76-Z-



5076 and TN-78-Z-5077 respectively, along with its Original Registration Certificate Books to the petitioner so as to enable him to alienate the said vehicle.

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

3. The petitioner is the defacto complainant in this case, who preferred a complaint in respect of theft of his vehicles viz., Tractor and Trailer, bearing Registration No.TN-76-Z-5076 and TN-78-Z-5077 respectively, and the said case was registered in Crime No.65 of 2016, on the file of the respondent Police under Section 379 of IPC. The said vehicles viz., the Tractor and Trailer were seized from the accused. Initially, the case was registered against unnamed accused and during investigation, there are totally 4 accused in this case and the said vehicles viz., Tractor and Trailer were seized from one of the accused / A1. The vehicles were remanded to the custody of the learned District Munsif-cum-Judicial Magistrate, Sivagiri, under P.R.No.74 of 2017.

4. The learned counsel appearing for the petitioner would submit that the petitioner filed an application in Cr.M.P.No.1808 of 2016, before the learned District Munsif-cum-Judicial Magistrate, Sivagiri, for return of the said vehicles viz., Tractor and Trailer, bearing Registration No.TN-76-Z-5076 and TN-78-Z-5077 respectively, for interim custody and it was ordered on 27.04.2016 with certain conditions. Accordingly, the petitioner has surrendered the original R.C.Books for getting those vehicles for interim custody before the concerned Magistrate Court. Thereafter, the petitioner has filed an application in Cr.M.P.No.4058 of 2016, seeking permission to sell the said vehicles viz., Tractor and Trailer and the same was dismissed by the Court below, on 12.09.2016. Aggrieved by the order of dismissal, the present Revision is preferred, for the aforesaid relief.



5. The learned Additional Public Prosecutor appearing for the respondent would submit that, since the case is still pending, at this stage, it is not desirable to permit the petitioner to alienate the vehicle, however, he has not raised any strong objections, in respect of the relief sought for by the petitioner.

6. Perused the materials on record. Heard and considered the rival submissions made by either parties.

7. The ownership of the seized vehicles viz., Tractor and Trailer, bearing Registration No. TN-76-Z-5076 and TN-78-Z-5077 respectively and interim custody of the vehicles is with the petitioner herein and the same has been admitted by the respondent.

8. Considering the above facts and circumstances of the case and also the principles laid down by the Hon'ble Apex Court in the Judgment in Sundarbhai Ambalal Desai Vs. State of Gujarat reported in (2003 (1) CTC 175), this Court is inclined to allow the Revision. Accordingly, this Criminal Revision stands allowed by setting aside the orders passed in Cr.M.P.No.4058 of 2017, dated 12.09.2016, by the learned District Munsif-cum-Judicial Magistrate, Sivagiri. Consequently, the learned District Munsif-cum-Judicial Magistrate is directed to return the original Registration Certificate Books of the vehicles in question to the petitioner, so as to enable him to alienate the said vehicles, on the following terms:-

(i) The concerned Court below shall upon production of the certified copy of the order, fix a date for production of the vehicles, which were given to the petitioner on interim custody, before it.

(ii) Upon production, the concerned Court shall cause photographs of the vehicles to be taken on different angles at the cost of the petitioner and record Panchanama thereof.



(iii) The photographs and the Panchanama should be read as evidence in lieu of the vehicles and the R.C.Books of the vehicles surrendered by the petitioner are directed to be handed over to the petitioner, after substituting with the attested Xerox copy of it, and

(iv) The Petitioner is at liberty to effect the sale of the vehicles.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Munsif cum Judicial Magistrate,
Sivagiri
- 2.The Inspector of Police,
Vasudevanallur Police Station,
Sivagiri Taluk,
Tirunelveli 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.

+1cc to M/S.C.SUSIKUMAR, Advocate SR.No.93617.

Cr1.RC (MD) No.875 of 2017
15.12.2017

MPK
SDS/SV:MMS/SAR 3/20.12.2017/4P/6C