



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.RC(MD)No.651 of 2016

Orders Reserved on 11.11.2016

P.K.Amarnath : Petitioner/ Petitioner/ Accused

Vs.

State thro'

The Inspector of Police,
Anna Nagar Police Station,
Madurai

(Crime No.62 of 2007)

: Respondent/Respondent/Complainant

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order passed by the learned Judicial Magistrate No.VI, Madurai in Crl.M.P.Sr.No.3110 of 2016 in S.C.No.248 of 2010, dated 18.03.2016 and return the original Registration Certificate Book of TATA Sumo Car in bearing No.TN-59-P-8856 to the petitioner.

For Petitioner :Mr.K.Kumaravel

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

O R D E R

This Revision has been filed praying to set aside the order passed by the learned Judicial Magistrate No.VI, Madurai in Crl.M.P.SR.No.3110 of 2016 in S.C.No.248 of 2010, dated 18.03.2016 and return the original Registration Certificate Book of TATA Sumo Car, bearing Registration No.TN-59-P-8856, to the petitioner.

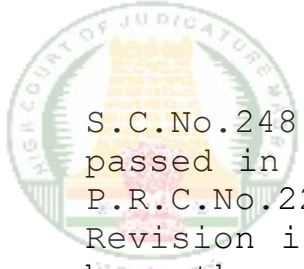
2. A case has been registered in Crime No.62 of 2007 against the petitioner and other accused persons, for the offences punishable under Sections 120(b), 363, 347, 386, 395 r/w 397 and 506(i) IPC., by the respondent Police. As per the final report, one Qualis Car, belonging to the first accused in this case, bearing Registration No. TN-59-V-1000, another vehicle belonging to the defacto complainant, bearing Registration No.TN-33-AD-5511 and also the vehicle bearing Registration No.TN-59-P-8856 were said to be used by the accused for the commission of the offence. It is further stated that the defacto complainant was said do to be kidnapped in TN-59-V-1000 and the driver of the defacto complainant was driven the vehicle, bearing Registration No.TN-33-

AD-5511 in the occurrence and also the vehicle bearing Registration No.TN-59-P-8856 was used for the commission of the offence of kidnapping by A9 and A10 in this case.

3. During investigation, the TATA Sumo Car, bearing Registration No.TN-59-P-8856, was seized and produced before the learned Judicial Magistrate No.VI, Madurai, who remanded the said vehicle in RPR No.297 of 2007, dated 03.10.2007. The said vehicle was also given interim custody to the petitioner, as per the order of the learned Judicial Magistrate No.VI, Madurai and further directed the petitioner to surrender the original R.C.Book before the concerned Judicial Magistrate. The learned Judicial Magistrate No.VI, Madurai, has taken the case on file as P.R.C.No.20 of 2010 and during pendency of that case, the accused Sunderesan and Seduraman were reported dead against whom the Death Certificates were not filed by the prosecution. Hence, the case against them was split up as P.R.C.No.22 of 2010 and is pending before the learned Judicial Magistrate No.VI, Madurai and thereafter, P.R.C.No.20 of 2010 pending against the petitioner and the remaining accused was committed to the learned Principal Sessions Court, Madurai and was taken on file as S.C.No.248 of 2010 and made over to the VI Additional Sessions Court, Madurai, for further proceedings.

4. In the said Sessions Case, charges were framed against the petitioner, who is arrayed as 9th accused, for the offences punishable under Sections 120(b) and 363 r/w 109 and 395 r/w 397 IPC. During the pendency of S.C.No.248 of 2010, the case against the accused Prabhu was split up as S.C.No.328 of 2012 from that case, since NBW issued against the said accused after framing of the charges was pending as un-executed for a long time and the said S.C.No.328 of 2012 is also still pending before the 6th Additional Sessions Court, Madurai because of the pendency of the NBW against the accused Prabhu.

5. The learned VI Additional Sessions Judge, tried the Sessions Case No.248 of 2010 and passed an order of acquittal against the petitioner and other accused persons by its Judgment, dated 01.02.2016. During trial before the learned VI Additional Sessions Judge, Madurai, a Qualis Car alone has been marked as M.O.1., though the Judgment of the trial Court referred all the three vehicles. It is further stated at the end of the Judgment that final property order will be passed in pending S.C.No.328 of 2012, before the learned VI Additional Sessions Judge, Madurai in P.R.C.No.22 of 2010, pending before the learned Judicial Magistrate No.VI, Madurai. The petitioner filed a petition before the learned Judicial Magistrate No.VI, Madurai, seeking return of his original Registration Certificate Book relating to the vehicle, bearing R.No.TN-59-P-8856, since he was acquitted from all charges also the said vehicle was not marked, as material direct object by the prosecution in this case. The learned Judicial Magistrate No.VI, Madurai has returned the petition by stating that the property order passed by the learned VI Additional Sessions Judge in its Judgment, dated 01.02.2016 in



S.C.No.248 of 2010 has stated that a separate order would be passed in respect of return of property in S.C.No.328 of 2012 and P.R.C.No.22 of 2010. Aggrieved by that order, the present Revision is filed to set aside the order dated 18.03.2016, passed by the learned Judicial Magistrate No.VI, Madurai in Crl.M.P.Sr.No.3110 of 2016, dated 18.03.2016 and also for return of the original Registration Certificate Book of TATA Sumo Car in bearing No.TN-59-P-8856, to the petitioner herein.

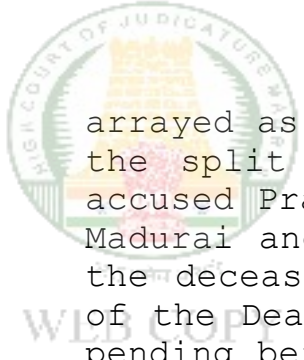
6. The learned counsel appearing for the petitioner would contend that the TATA Sumo Car, bearing R.No.TN-59-P-8856 was produced by the respondent before the learned Judicial Magistrate No.VI, Madurai, who remanded it in R.P.R.No.297 of 2007, dated 03.10.2007 in turn, the interim custody of the said vehicle was given to the petitioner and the original R.C.Book was also surrendered by the petitioner, as per the order of the learned Judicial Magistrate No.VI, Madurai; that the learned trial Judge was pleased to acquit all the accused including the petitioner by virtue of the Judgment, dated 01.02.2016 in S.C.No.248 of 2010; that neither the TATA Sumo Car bearing R.No.TN-59-P-8856 nor the Registration Certificate were relied by the prosecution and were not marked as M.Os. in S.C.No.248 of 2010 and hence, the said vehicle is not required for any other purpose, since the case was ended in acquittal. It is further contended that the petitioner is not able to run the TATA Sumo Car bearing R.No.TN-59-P-8856, which is in the custody of the petitioner, without the original R.C.Book, since the Authorities insist for the original R.C.Book and causes under hardship to the petitioner herein.

7. The learned Government Advocate (crl.side) appearing for the respondent has not chosen to file any objection to the relief sought for in this Revision.

8. Perused the materials on record. Heard and considered the rival submissions made by either side.

9. It is not denied that the TATA Sumo Car bearing R.No.TN-59-P-8856 was produced in Crime No.62 of 2007 before the learned Judicial Magistrate No.VI, Madurai and was remanded to the Court custody in R.P.R.No.297 of 2007, dated 03.10.2007. The petitioner has also stated that the interim custody of the said vehicle was given to the petitioner, as per the order of the learned Judicial Magistrate No.VI, Madurai. The copy of the order returning the said vehicle to the petitioner for interim custody is not produced before this Court. However, the factum of interim custody, as stated by the petitioner, is not denied by the respondent in this Revision. It is further stated that the original Registration Certificate Book of the vehicle was also surrendered by the petitioner, as per the order of the learned Judicial Magistrate No.6, Madurai and the said R.C.Book is lying in the custody of the Judicial Magistrate Court. This fact is also not denied by the respondent.

<https://hcservices.ecourts.gov.in/hcservices/> Perusal of the Judgment in S.C.No.248 of 2010, on the file of the learned VI Additional Sessions Judge, Madurai, it is stated that all the accused including the petitioner, who is



arrayed as 9th accused have been acquitted from all the charges and the split up case in S.C.No.328 of 2012 against the absconding accused Prabhu is pending before the VI Additional Sessions Court, Madurai and also the split up case in P.R.C.No.22 of 2010 against the deceased accused Sunderesan and Seduraman, for non-production of the Death Certificate of the said accused by the respondent is pending before the learned Judicial Magistrate No.6, Madurai. The impugned vehicle, which is said to be given interim custody to the petitioner / A9 was not marked as Material Objects by the respondent in S.C.No.248 of 2010, though it is stated that the said vehicle was used by A9 and A10 for commission of offence of kidnapping. The said contention is also not proved by the prosecution in the said case. The Qualis car alone was marked as M.O.1 in the said case. The impugned order made in respect of the vehicle viz., TATA Sumo Car bearing No.TN-59-P-8856, for interim custody by the learned Judicial Magistrate No.VI, Madurai, as alleged by the petitioner herein is not a final order, as it is only an order for interim custody of the vehicle. Such interim order is free to modify at any stage for the reasons to be recorded. Reviewing of final order alone is prohibited in law. Hence, there is no bar legally in entertaining the said petition filed by the petitioner seeking return of the original R.C.Book relating to the vehicle viz., TATA Sumo Car, bearing R.No.TN-59-P-8856, to the petitioner herein.

11. Considering the above facts and circumstances of the case, this Court is inclined to set aside the order, dated 18.03.2016, passed in Crl.M.P.Sr.No.3110 of 2016, by the learned Judicial Magistrate No.VI, Madurai.

12. In the result, the Criminal Revision is allowed by setting aside the order, dated 18.03.2016, passed in Crl.M.P.Sr.No.3110 of 2016, by the learned Judicial Magistrate No.VI, Madurai and the learned Judicial Magistrate No.VI, Madurai, is directed to take the impugned petition on file, if re-presented by the petitioner, and to pass an order for return of the original R.C.Book, considering the reasons assigned by the petitioner, on merits and in accordance with law.

Sd/-

Assistant Registrar(CS-II)

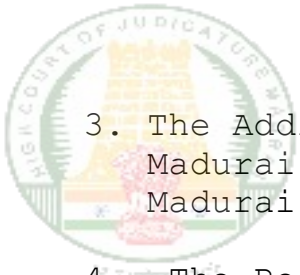
/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.VI,
Madurai

2. The Inspector of Police,
Asaram Police Station,
Madurai.



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

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

Mpk

vb/skn-rsk/sar1/08.06.2017/5p/5c

Cr1.RC(MD)No.651 of 2016

18.05.2017