



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **B.GOKULDAS**

Cr1.R.C.(MD).No.765 of 2016

V.Karthikeyan
S/o.Venkatasubramanian,
Door No.H, 1022,
Meenatchi Apartments,
Karumariamman Kovil Street,
Ellis Nagar, Madurai.

.. Petitioner/Petitioner

Vs.

1.State through the Sub Inspector of Police,
Kadaladi Police Station,
Ramanathpuram District,
In Crime No.106/2015.

.. 1st Respondent/1st Respondent

2.Manickanathan .

.. 2nd Respondent/proposed accused

Prayer:- Criminal Revision petition is filed under Section 397 r/w 401 Cr.P.C. to call for the records and proceeding relating to the order passed in Cr.M.P.No.750 of 2016 in P.R.C.No.2 of 2016, dated 17.03.2016 on the file of the learned Judicial Magistrate, Mudukulathur and set aside the same.

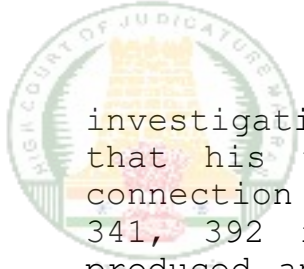
For Petitioner :M/s.S.J.Chakkaravarthy
For Respondent :Mrs.S.Prabha (Cr1.Side) for R1
Government Advocate

ORDER

This criminal revision petition is filed to call for the records and proceedings relating to the order passed in Cr.M.P.No.750 of 2016 in P.R.C.No.2 of 2016, dated 17.03.2016 on the file of the learned Judicial Magistrate, Mudukulathur and set aside the same

2. Learned counsel on either present and heard.

3. According to the petitioner, on 20.08.2015 he parked his vehicle namely Yamaha-FZ-Z bearing Registration No. TN 58 AJ 0757, Red in color, Chasis No.ME 121COLAE 2030899, Engine No.21CLO30917 in front of his house at Madurai and on the very same day, he found that his vehicle was stolen by someone. Since the vehicle was not found, he gave a complaint before the S.S.Colony Police Station, Madurai District and a case was registered in Cr.No.811 of 2015, dated 25.09.2015 for the offence under Section 379 IPC. It is the further case of the petitioner that in the course of the



investigation, the S.S. Colony Police have informed the petitioner that his vehicle was seized by the first respondent police in connection with Cr.No.106 of 2015 for the offence under Sections 341, 392 r/w 397 and 307 IPC. The first respondent police had produced and remanded the above said vehicle in P.R.No.149 of 2015 before the learned Judicial Magistrate, Mudukulathoor. Immediately the petitioner filed a petition in Cr.M.P.No.750 of 2016 for return of vehicle along with relevant documents to substantiate his ownership and the same was dismissed by the learned Magistrate concerned vide order dated 17.03.2016. Hence, the petitioner is before this court for the above stated relief.

4. The only objection of the learned Government Advocate is that the accused concerned with the crime number of property have not so far confessed as to how he got the vehicle from the jurisdiction of S.S.Colony Police Station. The learned Government Advocate also concedes that the property as per the records belongs to the petitioner. Except that objection nothing have put forth by the learned Government Advocate.

5. In these circumstances, though notice sent to the second respondent, he has not turned up today. R2 called absent. No representation for R2. R2 set exparte. R2's absence, either in person or by counsel, would go to show that he has not acted as a rivalry claimant. In these circumstances, this Court has no other option except to order the return of the vehicle which was remanded in P.R.No.149 of 2015, dated 20.11.2015 by the learned Judicial Magistrate, Mudukulathoor on proper identification and on execution of bond to the value of the vehicle with all other conditions.

6. Apart from that, this Court in a case of similar nature, in Cr1.RC.(MD).No.563 of 2015, dated 09.12.2015, ordered return of vehicle to the petitioner therein subject to certain conditions.

7. Considering the facts and circumstances of the case and also following the above said decision, this Court is inclined to grant the relief of return of vehicle to the petitioner as interim custody and hence, the order passed by the learned Judicial Magistrate, Mudukulathoor, in Cr.M.P.No.750 of 2016 in P.R.C.No.2 of 2016, dated 17.03.2016 is set aside and the interim custody of the vehicle namely Yamaha-FZ-Z bearing Registration No. TN 58 AJ 0757, Red in color, Chasis No.ME 121COLAE 2030899, Engine No.21CLO30917, which was seized by the first respondent police in Crime No.106 of 2015, is directed to be given to the petitioner on the following conditions:-

i.The petitioner shall produce proof of ownership of the vehicle.

iiThe Petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties to the satisfaction of the learned Judicial Magistrate, Mudukulathoor.

Iii.The petitioner shall surrender the R.C. Book and the



learned Judicial Magistrate, Mudukulathoor, is at liberty to return the R.C. Book for renewal of the registration or for insuring the vehicle. The R.C. Book can be obtained from the Court by filing a petition and after accomplishment of the purpose, the same should be returned to the Court; and

i. The petitioner shall also file an affidavit of undertaking to the effect that-

i) he will not alienate the vehicle without obtaining an order from the learned Judicial Magistrate, Mudukulathoor.

ii) he will produce the same vehicle before the Court as and when summoned to produce the same; and

iii) no major alteration excepting the necessary repairs to make the vehicle road worthy shall be made.

The petitioner shall also give an undertaking to produce the vehicle as and when required by the District Collector/Prohibition Officer in-charge of the District or Officer authorized in that behalf by the Government. "

8. The Criminal Revision Case stands allowed in the above terms.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Mudukulathoor.

2. The Sub Inspector of Police,
Kadaladi Police Station,
Ramanathpuram District,

Copy to:

The Section Officer,
V.R. Section,

Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr. S.J. CHAKKARAVARTHY, Advocate, Sr.No: 4767

MAS/SV-MMS:13.02.2017:3P/5C

CrI.R.C. (MD) .No.765 of 2016
30.01.2017