



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

CrI.RC(MD)No.817 of 2017

A.Krishnasamy

: Petitioner/Petitioner

Vs.

State through
The Sub-Inspector of Police,
Thennilai Police Station,
In Cr.No.106 of 2017,
Karur District.

: Respondent/Respondent

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records and set aside the order passed in C.M.P.No.6142 of 2017, dated 31.10.2017 on the file of the learned Judicial Magistrate No.II, Karur pertaining to Cr.No.106 of 2017, on the file of the Respondent Police and direct the respondent to grant the interim custody of the petitioner's Lorry (Ashok Leyland) bearing Registration No.TN-66-E-6383 to the petitioner by allowing this Revision.

For Petitioner : Mr.V.Balaji

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

O R D E R

This Criminal Revision has been filed praying to set aside the order passed in C.M.P.No.6142 of 2017, dated 31.10.2017, by the learned Judicial Magistrate No.II, Karur, pertaining to Crime No.106 of 2017, on the file of the Respondent Police and direct the respondent to grant the interim custody of the vehicle viz., the Lorry (Ashok Leyland), bearing Registration No.TN-66-E-6383, to the petitioner

2. This Criminal Revision is taken up for final disposal in the admission stage itself, with the consent of either side.

3. The Petitioner / 3rd party claims ownership of the vehicle viz., Lorry (Ashok Leyland), bearing Registration No.TN-66-E-6383, has filed C.M.P.No.6142 of 2017, before the learned Judicial Magistrate No.II, Karur, pertaining to Crime No.106 of 2017, registered by the respondent Police, under Section 21(1)(a)(b) of



Mines and Minerals Development and Regulations Act, 1957 r/w. Sections 468, 471, 420 and 379 of IPC., which is pending for investigation. The learned Judicial Magistrate No.II, Karur, dismissed the above said petition filed under Section 451 Cr.P.C., after hearing both parties in his order, dated 31.10.2017, considering the gravity and nature of the offences. Aggrieved by the order of the dismissal, the present Criminal Revision is filed before this Court, seeking for the aforesaid relief.

4. The learned counsel appearing for the petitioner would contend that the petitioner is the owner of the vehicle and damages may be caused to the vehicle, since it was kept by the respondent in open air, light and rain and it not only depreciate the value of the vehicle, but also affect the lawful earnings of the petitioner. He would further submit that the petitioner undertakes to abide any condition that may be imposed by the Court and hence, the impugned order is liable to be set aside.

5. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that the Lorry seized and remanded in R.C.No.254 of 2017 is involved in commission of offence of theft of sand and transport of such sand has been banned by the State Government and the petitioner will not produce the property at the time of trial, if the interim custody is ordered.

6. This Court considered the rival submissions and also perused the impugned order of dismissal and the materials on records.

7. Admittedly, the vehicle viz., the Lorry (Ashok Leyland), bearing Registration No.TN-66-E-6383 was seized and remanded to Judicial custody on 29.08.2017 in Crime No.106 of 2017, by the respondent, under Section 379 of IPC., r/w 21(1)(a)(b) of Mines and Minerals Development and Regulations Act, 1957 r/w. Sections 468, 471 and 420 of IPC., under R.P.No.254 of 2017, by the learned Judicial Magistrate No.II, Karur. The vehicle in question is now under the custody of the respondent Police. The copy of Certification of Registration in respect of the vehicle viz., the Lorry (Ashok Leyland), bearing Registration No.TN-66-E-6383, reveals the fact that the transfer of ownership of the said vehicle was effected in the name of the petitioner herein with effect from 23.09.2015, as per the endorsement in R.No.035898/A1/2015 by the Assistant Registering Authority, Mettupalayam. Hence, the petitioner become the owner of the vehicle from 23.09.2015.

8. Further, there is no rival claim in respect of the seized vehicle. The petitioner herein is not arrayed as an accused in this case and the case is pending for investigation. The driver of the said lorry is an accused in this case. The seized lorry is said to be involved in the said commission of the offence, as per the case of the prosecution. According to the revision petitioner, he has no knowledge about the alleged involvement of his vehicle. Hence,



there is no bar for interim custody of the seized vehicle to the petitioner, since there is no dispute that the petitioner is the owner of the vehicle and also there is no rival claim in respect of the vehicle in question.

9. The counsel appearing for the revision petitioner relies the decision of this Court in **Murugesan Vs. State, through the Inspector of Police, Devathanapatty Police Station, Theni District** reported in **(2017 (2) MWN (Cr.) 412)**. This Court also considers the guidelines of the Apex Court in the Judgment in **Sundarbai Ambalal Desai Vs. State of Gujarat** reported in **(2003 (1) CTC 175)**.

10. Considering the above facts and circumstances of the case, this Court is inclined to allow this Criminal Revision and set aside the impugned order passed in C.M.P.No.6142 of 2017, dated 31.10.2017, by the learned Judicial Magistrate No.II, Karur. Accordingly, this Criminal Revision is allowed and the impugned order passed by the learned Judicial Magistrate No.II, Karur in C.M.P.No.6142 of 2017, dated 31.10.2017, is set aside and the learned Magistrate is directed to grant interim custody of the vehicle viz., the Lorry (Ashok Leyland), bearing Registration No.TN-66-E-6383, to the petitioner, on following conditions:-

(i). The petitioner is directed to execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to the satisfaction of the learned Judicial Magistrate No.II, Karur.

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

(iii). The petitioner shall not dispose or alter or change the vehicle, until final property order is passed by the trial Court.

(iv). The petitioner shall surrender the original R.C.Book of the said vehicle before the learned Judicial Magistrate No.II, Karur.

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

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar



To

1. The Judicial Magistrate No.II,
Karur.

2. -do- through The Chief Judicial Magistrate,
Karur.

3. The Sub-Inspector of Police,
Thennilai Police Station,
Karur District

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

+ 1 CC TO Mr.V.BALAJI, ADVOCATE IN SR No. 90509

MPK

TE/KK/SAR-1 : 08/12/2017 : 4P/6C

Order made in
Crl.RC(MD)No.817 of 2017
Dated:- 30.11.2017