

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl. Revision Case No.160 of 2018

Sivasubramaniam

... Petitioner

vs

State rep. by

The Sub Inspector of Police,
Chidambaram Town Police Station,
Cuddalore District.

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the records of the learned Judicial Magistrate No.II, Chidambaram, Cuddalore District and set aside the order passed by the learned Magistrate made in Crl.M.P.No.4275A/2017 dated 27.10.2017 and return of vehicle (Small Bus) bearing Reg.No.TN.45.N.0288 when the vehicle was seized by the respondent herein in Crime No.261 of 2017 on the file of the Inspector of Police, Chidambaram Town Police Station, Cuddalore District to the custody of petitioner.

For Petitioner : Mr.A.Arasu Ganesan
For Respondent : Mr.Harihara Arun Somasankar
(Government Advocate)

ORDER

This revision has been filed to set aside the order passed by the learned Judicial Magistrate No.II, Chidambaram, Cuddalore District made in Crl.M.P.No.4275A/2017 dated 27.10.2017 and further direct the respondent to release the vehicle (Small Bus) bearing Reg.No.TN.45.N.0288 to the petitioner.

2. The respondent has seized a Small bus bearing Registration No.TN.45.N.0288 belonging to the petitioner in connection with the case registered in Crime No.261 of 2017 on its file for the offences under Sections 120(B), 465, 468, 471 and 475 I.P.C. The petitioner has moved Crl.M.P.No.4275A of 2017 before the learned Judicial Magistrate No.II, Chidambaram, Cuddalore District, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 12.12.2017 and hence, this revision.

3. Learned counsel for the petitioner would submit that the petitioner is in need of his vehicle and undertakes that the petitioner will not indulge in any such offences in future and to produce the vehicle on being released as and when required by the Court below.

4. Heard the learned Government Advocate would strongly object for releasing the vehicle and he prays for dismissal of this revision.

5. In the circumstances above stated and following the decisions of the Hon'ble Apex Court in *Sunderbhai Ambalal Desai v. State of Gujarat* (AIR 2003 Supreme Court 638) and *General Insurance Council V. State of Andhra Pradesh* in 2010 (3) Supreme Pg. 317, this Court directs as follows:

The "**(Small bus) bearing Registration No. TN.45.N.0288**" shall be placed in the custody of the petitioner after complying with the following:

i) The lower Court shall cause photographs of the vehicle to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with.

ii) The vehicle shall then be returned to the petitioner, who shall be at liberty to deal with the same in such manner as considered appropriate.

iii) The petitioner shall deposit a sum of Rs.75,000/- before the Judicial Magistrate No.II, Chidambaram, Cuddalore District.

iv) The above order is not determinant of the ownership or other rights in respect of the vehicle.

v) The petitioner shall not alter the ownership of the ***Smallbus** bearing Reg.No. ***TN.45.N.0288** till the disposal of the Cr.No.261 of 2017.

6. In the result, this Criminal Revision petition is allowed. The order of the learned Judicial Magistrate No.II, Chidambaram, Cuddalore District, passed in CrI.M.P.No.4275A/2017 dated 27.10.2017, is hereby set aside.

Sd/-
Assistant Registrar(CS-II)

**Corrected as per the order of
this court dated 15.03.2018 made
in CrI.Rc.160/2018
sd/-
Assistant Registrar(cs V)**

//True Copy//

Sub Assistant Registrar

kkd

- To
- 1.The Sub Inspector of Police,
Chidambaram Town Police Station,
Cuddalore District.
 - 2.The Judicial Magistrate No.II,
Chidambaram, Cuddalore District
 3. The Public Prosecutor,
High court, Madras.

To be substituted for
the order already
despatched on 14/03/2018

+1cc to Mr.ARASU GANESAN, Advocate, S.R.No. *19420

CRL.R.C.No.160 of 2018

KAN(CO)
TR(08/03/2018)
nr 15/03/2018

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