

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.Nos.387 to 390 of 2018

Mr.Nagaraj ...Petitioner in Crl.RC.Nos.387 and
388 of 2010
Mr.Shiva ...Petitioner in Crl.RC.No.389 of 2010
Tmt.N.Nirosha ...Petitioner in Crl.RC.No.390 of 2010

...Vs...

The State rep.by the
Inspector of Police,
M-6, Manali Police Station,
Manali, Chennai - 600 068 ...Respondents in all Crl.RCs

PRAYER in Crl.RC.No.387 of 2010: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed in C.M.P.No.2028 of 2017 in Crime No.1165 of 2016 dated 27.10.2017 on the file of Judicial Magistrate, Thiruvottriyur and to direct the Judicial Magistrate, Thiruvottriyur to return the lorry bearing Registration No.TN-88-0907 owned by the petitioner.

PRAYER in Crl.RC.No.388 of 2010: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed in C.M.P.No.2027 of 2017 in Crime No.1165 of 2016 dated 27.10.2017 on the file of Judicial Magistrate, Thiruvottriyur and to direct the Judicial Magistrate, Thiruvottriyur to return the lorry bearing Registration No.TN-01-T-6756 owned by the petitioner.

PRAYER in Crl.RC.No.389 of 2010: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed in C.M.P.No.2026 of 2017 in Crime No.1165 of 2016 dated 27.10.2017 on the file of Judicial Magistrate, Thiruvottriyur and to direct the Judicial Magistrate, Thiruvottriyur to return the lorry bearing Registration No.TN-47-E-5229 owned by the petitioner.

PRAYER in Crl.RC.No.390 of 2010: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside

the order passed in C.M.P.No.2029 of 2017 in Crime No.1165 of 2016 dated 27.10.2017 on the file of Judicial Magistrate, Thiruvottriyur and to direct the Judicial Magistrate, Thiruvottriyur to return the lorry bearing Registration No.TN-04-AE-7876 owned by the petitioner.

For Petitioners : Mr.M.Vivekanandan in all Crl.RCs

For Respondent : Mr.R.Surya Prakash
Government Advocate (Crl.Side)
in all Crl.RCs

O R D E R

Heard both sides.

2. It appears from the records that the alleged offence is under Section 379 I.P.C in respect of missing of one lorry. According to the petitioner, he is the owner of the vehicle bearing Registration No.TN 88 0907, . The petitioner moved the application in C.M.P.No.2028 of 2017 in Crime No.1165 of 2016 before the Judicial Magistrate, Thiruvottriyur and the same was dismissed on 27.10.2017 by the trial Court, on the ground that the matter has been referred to the Tamil Nadu Forensic Department for analysis to find out the real truth.

3. When the matter was taken up this Court on 16.04.2018 and as directed to the learned Government Advocate (Crl.side) to get instructions from the Forensic Department, report has been received in respect of the lorries in question with the above Registration Number. However, there is no reply sofar.

4. Admittedly, the xerox copy of the R.C filed shows the ownership of the petitioner in respect of the lorry which is not in dispute. Therefore, considering the entirety of the circumstances, I am inclined to grant the relief and to release all the four vehicles as interim custody to the petitioners herein, subject to the following conditions. The Registration number of the vehicles is stated below:-

- i) Crl.R.C.No.387 of 2018 - Registration Number TN 88 0907
- 6756 ii) Crl.R.C.No.388 of 2018 - Registration Number TN 01 T
- 5229 iii) Crl.R.C.No.389 of 2018 - Registration Number TN 47 E
- 7876 iv) Crl.R.C.No.390 of 2018 - Registration Number TN 04 AE

(i) The petitioners shall execute a bond for a sum of Rs.5,00,000/- with two sureties to satisfaction of the trial Court.

ii) The petitioners shall establish their ownership of the vehicles by producing necessary certificates before the Judicial Magistrate, Thiruvottriyur.

(ii) The petitioners shall not alienate the vehicles in any manner till the adjudication proceedings/trial is over.

(iii) The petitioners shall give an undertaking that they will not use the vehicles for any illegal activities in future and also to produce the vehicles as and when required by the respondent.

(iv) The petitioner shall attend the enquiry, if any, that is being conducted by the respondent.

v) The respondent shall cause photographs of the vehicles to be taken and record panchanama thereof and the photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with.

vi) The vehicle shall then be returned to the petitioners who are at liberty to deal with the same in such manner as considered appropriate.

5. The above order is passed not in determinant to the ownership or other rights in respect of the vehicles in question.

6. Subject to the above conditions, these Criminal Revision Petitions are disposed of.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Judicial Magistrate, Thiruvottriyur

2.The Chief Judicial Magistrate, Tiruvallur.

3.The Inspector of Police,
M-6, Manali Police Station,
Manali, Chennai - 600 068

4.The Public Prosecutor,
High Court, Madras.

+4cc to Mr.M.Vivekanandan, Advocate sr.no.7903 to 7906

Cr1.R.C.Nos.387 to 390 of 2018

nr 26/04/2018