

In the High Court of Judicature at Madras

DATED: 25.01.2018

C O R A M

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.R.C.No.1261 of 2017

Gopu

.. Petitioner

Vs.

The State rep. by
The Inspector of Police,
CBCID, Vellore,
Vellore District.
Cr.No.6/2015

.. Respondent

PRAYER: Criminal Revision filed under Sections 397 and 401 of the Code of Criminal Procedure, against the order dated 19.09.2016 passed by the learned Judicial Magistrate No.III, Vellore in C.M.P.No.1373 of 2016 and setaside the same.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.T.Shanmuga Rajeswaran
Government Advocate (Crl.Side)

O R D E R

This Revision filed under Sections 397 and 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.III, Vellore, in C.M.P.No.1373 of 2016 dated 19.09.2016.

2.According to the petitioner, the petitioner's lorry bearing Registration No.TN-38-AV-4300 was seized by the respondent police herein on 03.06.2015 for the alleged transporting of more than 100 in number of Red sandels worth Rs.32 lakhs. Hence, a case was registered by the respondent police in Cr.No.6 of 2015. The petitioner along with other accused were remanded to judicial custody and later were enlarged on Bail. Thereafter, the petitioner filed a petition in Crl.M.P.No.1442 of 2015 before the learned Judicial Magistrate No.III, Vellore seeking release of his vehicle. The Learned Judge by an order dated 19.08.2016 released the vehicle by

granting Interim Custody to the petitioner with various conditions. One amongst them was that the petitioner has to surrender the Original RC Book before the Court. Petitioner accordingly surrendered the Registration Certificate book of the vehicle and the same was retained on 19.08.2016 under the custody of the Learned Judicial Magistrate No.III, Vellore.

3.As the Registration Certificate book of the vehicle was required by the petitioner to produce before the Transport authorities to pay the Road Tax and also to pay the Insurance,the petitioner filed an application in CMP.No.1195 of 2015 and the same was dismissed by the Learned Magistrate citing pendency of Investigation.

4.Subsequently, in the year 2016 as the investigation was conducted and about to be concluded, the petitioner again filed an application in C.M.P.No.1373 of 2016 seeking to return the RC book of his lorry bearing Registration No.TN-38-AV-4300 for a 30 days for the purpose of production before the Transport authorities to pay the Road Tax and also for paying the Insurance.

5.The said petition was resisted by the prosecution citing the pendency of investigation and the chance of petitioner's absconding along with the vehicle. Thereupon the Learned Judge vide an Order dated 19.09.2016 disallowed the petition citing chance of alienation by the petitioner and absconding. The said order is impugned herein.

6.I heard Mr.G.Magesh Kumar, learned counsel for the petitioner and Mr.T.Shanmuga Rajeswaran, learned Government Advocate (Criminal Side) for the respondent and perused the entire records.

7.The Learned Counsel for the petitioner would submit that as the Registration Certificate book of the vehicle was required by the petitioner to produce before the Transport authorities to pay the Road Tax and also to pay the Insurance, it is just and necessary to return the R.C. Book. The Learned Judge ought to have seen that the petitioner has filed an affidavit undertaking that the R.C. Book will be returned in 30 days after complying with the formalities before the R.T.O. authorities. Thus there is no chance of alienation or absconding by the petitioner.

8.Per Contra, the Learned Government Advocate (Criminal Side), would contend that the investigation is pending and there is every chance of petitioner's absconding along with the vehicle. Only on appraisal of the said fact the Learned Magistrate has rightly disallowed the petition. More so, only taking into account of the nature of Offence involved attracting

the Tamil Nadu Forest Act, 1882, the Rc Book was retained by the Learned Judge. Therefore he prays for the dismissal of this petition.

9. On careful perusal of the Records, it is seen that the petitioner has undertaken that after paying Road Tax and Insurance, he will return the R.C. Book before the Court. It is further appear that the petitioner has sought the registration Certificate book only for a period of 30 days as an Interim requirement for paying Road Tax, whereas he had undertaken to surrender the same in 30 days before the Learned Magistrate No. III, Vellore.

10. At this juncture, it is needless to say that it is quiet natural and indispensable that the above Document is required by the R.T.O. Officials for renewal and other formalities. In the case on hand petitioner seek the custody of RC Book only for a period of thirty days. It is not his case that the Rc Book has to be permanently vested with him. More over the cause stated by him also appears to be reasonable. Admittedly he has undertaken to surrender back the R.C. Book in 30 days after completing the Insurance and Road Tax formalities.

11. It is further seen vide para-9 of the Counter of the respondent herein that the investigation is almost completed and the case is under investigation for securing an Accused. Thus in my considered opinion that at this point of time that the investigation is almost completed, mere retaining of the RC Book will have no use to secure the accused sought by the 1st respondent.

12. In view of the forgoing discussions, this court comes to the conclusion that the order of the Learned Magistrate cannot withstand the scrutiny of this court and the same deserves to be set aside.

13. Considering the facts and circumstances of the case, the petitioner is directed to file an undertaking affidavit before the Learned Magistrate No. III, Vellore stating that he will return the Registration Certificate book within thirty days from granting of the Registration Certificate book to the petitioner. On filing of such undertaking, the learned Judicial Magistrate is directed to return the original Registration Certificate book to the petitioner, after keeping Photo copies certified by the Learned Judge. After paying Road Tax and Insurance, the petitioner shall surrender the original Registration Certificate book before the learned Judicial Magistrate, Vellore.

14.In the result:

(a) this Criminal Revision is allowed and the C.M.P.No.1373 of 2016, dated 19.09.2016, on the file of the learned Judicial Magistrate No.III, Vellore, is set aside;

(b) the Original R.C. Book of the vehicle namely Lorry, bearing Registration No.TN-38-AV-4300 is directed to be handed over to the revision petitioner within a period of 30 days with the following conditions:-

i) the petitioner shall not sell or pledge the vehicle namely Lorry, bearing Registration No.TN-38-AV-4300.

ii) the petitioner is directed to file an undertaking affidavit before the Learned Judicial Magistrate No.III, Vellore stating that he will return the Registration Certificate Book within 30 days from granting of the Registration Certificate book to the petitioner.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Judicial Magistrate No.III, Vellore.

2.The Inspector of Police, CBCID, Vellore, Vellore District.

3.The Public Prosecutor, High Court Madras.

+1cc to Mr.G.Mageshkumar, Advocate, S.R.No.6126

Cr1.R.C.No.1261 of 2017

RK(CO)

RRK(18/04/2018)

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