

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.Nos.642 and 644 of 2018

M.Vijayakumar

... Petitioner in both Crl.R.Cs.

.. Vs ..

The Inspector of Police,
Sivagiri Police Station.
Crime No.239 of 2017.

... Respondent in
Crl.R.C.No.642/2018

1. N.Visvanathan

2. The Inspector of Police,
Sivagiri Police Station.
Erode District.

Crime No.239 of 2017. ... Respondents in
Crl.R.C.No.644/2018

Prayer in both Crl.R.Cs.: Criminal Revision Cases filed under Sections 397 and 401 of Cr.P.C., against the order dated 05.04.2018 passed by the learned District Munsif-cum-Judicial Magistrate, Kodumudi, in C.M.P.Nos.3515 and 3516 of 2017 respectively.

For Petitioner in both Crl.R.Cs:Mr.R.Prabakar

For Respondent in

Crl.R.C.No.642/2018 &

R.2 in Crl.R.C.No.644/2018

:Mr.R.Surya Prakash,

Govt. Advocate

For R.1 in Crl.R.C.No.644/2018 :Mr.T.Gowthaman

COMMON ORDER

These two criminal revision cases are filed by the first accused against the order dated 05.04.2018 passed by the learned District Munsif-cum-Judicial Magistrate, Kodumudi, in C.M.P.Nos.3515 and 3516 of 2017 respectively.

2. The first accused/revision petitioner herein has filed the C.M.P.No.3515 of 2017 before the trial Court and the de facto complainant has filed the C.M.P.No.3516 of 2017 under Section 451 of Cr.P.C. claiming that they are the owners of the property. Hence, they wanted interim custody of the property.

3. It appears that the de facto complainant has given a complaint on 02.10.2017 against the revision petitioner and other accused and on the basis of the said complaint, a case was registered in Crime No.239 of 2017 for the offence under Section 380 IPC regarding the theft of machineries committed by the accused and on arrest, it has been recovered from the revision petitioner/first accused and even before that, he has obtained an order of anticipatory bail.

4. Before the trial Court, on behalf of the accused, two witnesses were examined and seven documents were marked and on behalf of the de facto complainant, the complainant examined himself as P.W.1 and 11 documents were marked.

5. On consideration of both oral and documentary evidence, the trial Court came to a conclusion that the de facto complainant has shown the prima facie case and accordingly, allowed the petition filed by the de facto complainant and interim custody of the property was given to the de facto complainant and dismissed the petition filed by the first accused on the ground that no document has been produced by him in support of his case. At this juncture, the first accused has marked the document relating to the suit in O.S.No.107 of 2017 which was filed claiming title to the property and the same is pending.

6. After perusing the order passed by the trial Court and after going through the oral and documentary evidence, I do not find any infirmity or irregularity in the order passed by the learned District Munsif-cum-Judicial Magistrate, Kodumudi.

7. In the result, both the Criminal Revisions Cases are dismissed and the order dated 05.04.2018 passed by the learned District Munsif-cum-Judicial Magistrate, Kodumudi, in C.M.P.Nos.3515 and 3516 of 2017 respectively are confirmed. It is made clear that the finding of the learned Magistrate in respect of application is only for interim custody and that will not stand in any way in respect of the suit in O.S.No.107 of 2017 pending on the file of the learned District Munsiff-cum-Judicial Magistrate, Kodumudi.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

Jr1

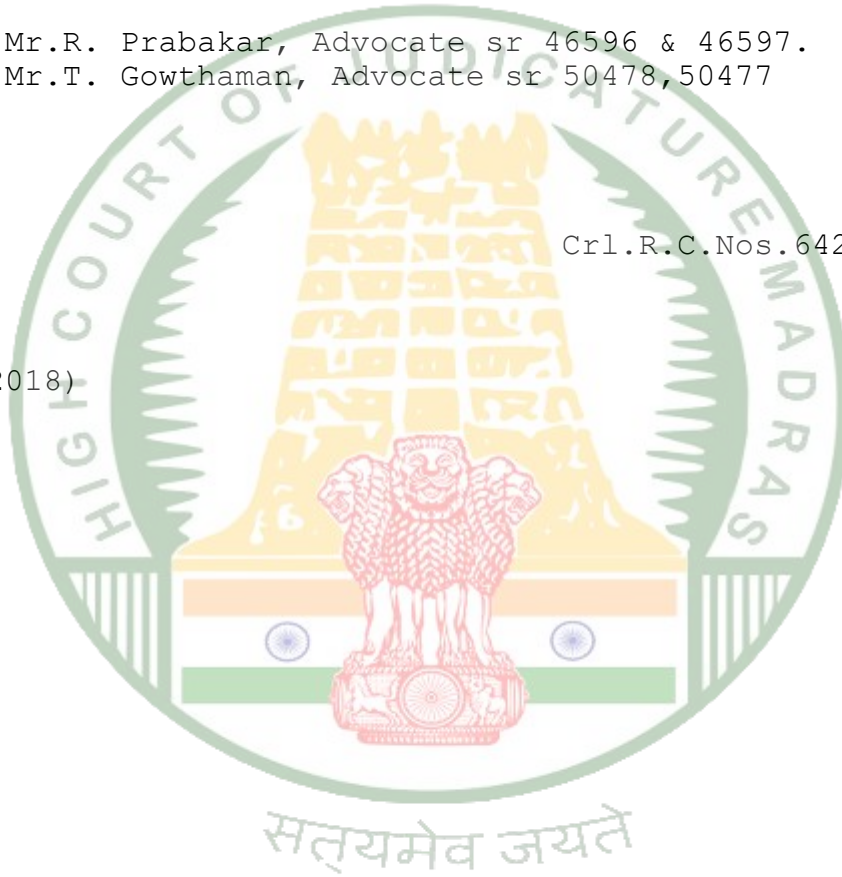
To

1. The District Munsif-cum-Judicial Magistrate,
Kodumudi.
2. The Inspector of Police,
Sivagiri Police Station.
Erode District.
3. The Public Prosecutor,
High Court, Madras.

+2 Ccs to Mr.R. Prabakar, Advocate sr 46596 & 46597.
+2 Ccs to Mr.T. Gowthaman, Advocate sr 50478, 50477

Cr1.R.C.Nos.642 & 644/2018

SP(10/08/2018)



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