

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Revision No.1246 of 2013

M/s.Shriram Transport Finance
Company Ltd.,
Represented by its
Asst. Product Manager,
Mr.P.Sivaraj,
S.P.Complex, 1st Floor,
Wall Tax Road,
Sowcarpet,
Chennai 600 079. .. Petitioner

Vs

1.State by
The Inspector of Police,
M.7, Manali New Town Police Station,
Crime No.89 of 2013.

2.Mr.Rameshkumar

3.Mr.Mohanraj .. Respondents

Prayer:- Criminal Revision filed under Sections 397 and 401 Cr.P.C., against the order dated 25.04.2013 in C.M.P.Nos.1869, 2401 and 2626 of 2013 by the learned Judicial Magistrate No.II, Ponneri.

For Petitioner : Mr.V.Sridharan
M/s.T.S.Gopalan and Co.

For Respondents : Mr.R.Ravichandran, Govt. Advocate (Criminal side) for R1

Mr.Ganesh Kumar for R2.

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O R D E R

The present criminal revision has been filed against the order dated 25.04.2013 in C.M.P.Nos.1869, 2401 and 2626 of 2013 passed by the learned Judicial Magistrate No.II, Ponneri.

2.The facts leading to prefer this revision are as follows :-

(i)On 27.01.2013 at about 16.15 hours, one Mohanraj, who is residing No.5/74, Thiyagarajan Street, M.A.Nagar, Sengundram, Chennai 5. at Manalipudhu Nagar, lodged a complaint to the Sub

Inspector of Police, Manali Pudhunagar Police Station, Chennai stating that the lorry bearing Registration No.TN 04 AC - 4470 was repaired at Ponneri High Road at about 7.00 p.m as one of the parts of the lorry was damaged. As if to repair the said part will take three days time, he left the lorry at the edge of the road and after three days while he went to that place, to change the said part, he found that the lorry was missing. The Inspector of Police, Manalipudhu Nagar Police Station has taken the said complaint on file and registered a case in in Cr.No.89 of 2013 under Section 379 Cr.P.C.

(ii) Apart from him, one Ramesh has given another complaint before M8 Manali Newtown Police Station stating that his lorry was missing.

(iii) M/s. Shri Ram Transport Finance Company Ltd. has also filed a complaint, as if they are the owners of the lorry, stating that the said lorry was sold on hire purchase basis to the petitioner in C.M.P.No.2401 of 2013 (Mohanraj), who has failed to repay the loan amount.

(iv) The learned Judicial Magistrate No.II, Ponneri has taken the complaints filed by Ramesh Kumar in C.M.P.No.1869 of 2013, Mohan Raj in C.M.P.No.2401 of 2013 and M/s Shri Ram Transport Finance Company Ltd., in C.M.P.No.2626 of 2013 on file.

(v) All the three petitions have been filed to return the property namely, lorry bearing Reg.No.TN 34 F 0623.

(vi) During the investigation, the lorry bearing Registration No. TN 34 F 0623 was seized.

(vi) The learned trial Judge, after perusing all the petitions and the documents available on record, dismissed all C.M.P.Nos.1869, 2401 and 2626 of 2013 by order dated 25.04.2013 stating that the identity and the ownership of the lorry can be decided only at the time of trial after perusing the oral and documentary evidence. As against the said order, the present civil revision petition has been filed by the revision petitioner viz., M/s. Shriram Transport Finance Company Ltd.

3. The learned counsel for the revision petitioner submitted that the accused has committed theft of lorry bearing Registration No.TN 04 AC 4470 and changed the original number plate. Moreover, the learned counsel admitted that the Registration number, Chasis number and Engine number have been erased by the accused. Since the petitioner in C.M.P.No.2401 of 2013 is none other than the borrower of loan from the revision petitioner and the revision petitioner is financier of the said lorry, the revision petitioner is entitled to the return of lorry.

4. The learned counsel for the revision petitioner further submitted that though the petitioner in C.M.P.No.2401 of 2013 has filed a copy of RC book to prove his ownership, the revision petitioner has the original RC book and hence, he is entitled to the return of property.

5. The learned Government Advocate (Crl.side) submitted that at the time of filing of the petitions, investigation was pending and no charge sheet was filed. Now, investigation was completed and charge sheet was filed and the case has been taken on file in C.C.No.55 of 2015 and the case is pending for trial.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record carefully.

7. A perusal of records reveals that the details relating to engine and chasis number of the vehicle

have been erased and they did not reveal any particular number by itself. It further reveals that the petitioner made a plea in C.M.P.No.1869 of 2013 that the lorry was sent for inspection and verification by the RTO authorities, the learned trial Judge has not convinced with the said plea. Since the seized vehicle does not possess the Engine and Chasis number and hence, the identity of the lorry has not been established, the learned trial Judge, rightly dismissed all the three petitions stating that the identity and ownership of the lorry can be established at the time of trial, after adducing necessary oral and documentary evidence. Hence, this Court does not find any illegality or irregularity or perversity in the judgment of the trial Court and there is no reason to interfere with the order passed by the Court below.

8.It is well settled proposition of law that whatever the defence that was taken by the petitioner at the time of dealing with the petition, the Court has to see the materials placed before it and prima facie, if any allegation is made out, the Court need not allow the petition without any trial or evidence.

9.Since the matter is pending before the trial Court, the learned Judicial Magistrate No.II, Ponneri is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

In the result, the Criminal revision petition fails and the same is dismissed. The order passed by the Court below is confirmed.

21.08.2018

Index:Yes/ No

Internet: Yes/No

Note to Office:

Issue on 15.10.2016

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To

1. The Judicial Magistrate, No.II,
Ponneri.

2.The Public Prosecutor,
High Court, Madras.

P.VELMURUGAN,J

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Crl.R.C.No.1246 of 2013

21.08.2018