



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH****Crl.R.C.(MD)No.86 of 2018**

M.Vasu

: Petitioner

Vs.

State through
The Inspector of Police,
Gandamanur Police Station,
Theni District.
(In Crime No.559 of 2017).

: Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records in Crl.M.P.No.108 of 2018 on the file of the learned District Munsif -cum- Judicial Magistrate, Aandipatti and to set aside the order passed in Crl.M.P.No.108 of 2018, dated 29.01.2018 and to direct the respondent to return back the custody of the lorry bearing Registration No.TN.59/C/9344.

For Petitioner

: Mr.C.M.Arumugam

For Respondent

: Mrs.S.Bharathi,
Government Advocate (Crl.side)

ORDER

The respondent police registered a case in Crime No.559 of 2017 on 25.10.2017 under Section 379 of the Indian Penal Code and Section 3(3) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 against two accused. It is the case of the prosecution that on 25.10.2017 when the police party were on rounds, they found a lorry bearing Registration No.TN-59-C-9344 with one unit of river sand (ஓடை மணல்). On seeing the police party, the two occupants in the lorry abandoned the lorry and fled. The police brought the lorry to the station and registered a case as aforesaid. The petitioner, who is one of the accused, was granted anticipatory bail. Thereafter, the petitioner filed Crl.M.P.No.108 of 2018 before the learned District Munsif -cum- Judicial Magistrate, Andipatti, under Sections 457 and 451 of the



Code of Criminal Procedure for return of the lorry. The learned Magistrate has dismissed the petition on 29.01.2018 on the ground that the lorry does not have the engine number. Hence, the petitioner has filed the present revision.

2. Heard Mr.C.M.Arumugam, learned counsel for the petitioner and Mrs.S.Bharathi, learned Government Advocate (Criminal side) for the respondent.

3. The learned counsel for the petitioner submitted that the RC book of the lorry stands in the name of the petitioner and that the petitioner had paid the insurance amount for the lorry very recently, but, however, since the lorry was manufactured sometimes in the year 1993, it does not have the engine number in embossed form.

4. Per contra, the learned Government Advocate (Criminal side) submitted that in the absence of the engine number in the vehicle, it will be very difficult for the Court to decide the ownership based merely on the registration number.

5. This Court gave its anxious consideration to the rival submissions.

6. It is true that the engine number is an important ingredient to determine the ownership of the vehicle. Admittedly, the vehicle is very old and the learned counsel for the petitioner submitted that the engine number is available in the insurance policy, RC book and Fitness Certificate. The learned counsel for the petitioner also submitted that the insurance expired on 10.02.2018 and the vehicle is required for renewal of the insurance.

7. In the opinion of this Court, there is no point in keeping the lorry parked in the Police Station or in the Court compound indefinitely, as that would not only occupy space but the lorry will get deteriorated on account of disuse. In the facts and circumstances of the case, when the petitioner comes forward to claim ownership of the lorry by production of the RC book, Fitness Certificate and other documents, no prejudice will be caused to the prosecution, if interim custody of the vehicle is handed over to the petitioner.

8. In the result, this revision is allowed and the impugned order dated 29.01.2018 in CrI.M.P.No.108 of 2018 is set aside and the learned District Munsif -cum- Judicial Magistrate, Andipatti is directed to order return of the lorry to the petitioner on conditions imposed by the learned District Munsif -cum- Judicial Magistrate, Andipatti. The petitioner shall deposit the original RC book before the learned District Munsif -cum- Judicial Magistrate, Andipatti, after taking delivery of the vehicle and



renewing the insurance policy, within one month from the date of taking delivery of the vehicle.

Sd/-

Assistant Registrar(T&P)

WEB COPY/True Copy/

Sub Assistant Registrar

To

1. The District Munsif -cum- Judicial Magistrate,
Aandipatti.
2. The Inspector of Police,
Gandamanur Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.M.Arumugam, Advocate Sr.No.52648

SML

VB/SKN/RSK/SAR4/09/03/2018/3P/5C

Order made in
Cr1.R.C. (MD) No.86 of 2018
02.03.2018