



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2018

CORAM :

THE HONOURABLE Mrs.JUSTICE R.THARANI

CrI.R.C.(MD).No.417 of 2017
and
CrI.MP(MD)No.4281 of 2017

Sunitha
Complainant

... Petitioner/Defacto

Vs.

1. Shunmugaraja

... 1st Respondent/A-1

2. State represented by
The Sub Inspector of Police,
Perungudi Police Station,
Madurai.

... 2nd Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w.401 Cr.P.C, to call for the records relating to the order made in Cr.M.P.No.1057 of 2017 dated 26.04.17 on the file of the learned Judicial Magistrate No.VI, Madurai and set aside the same.

For Petitioner	: Mr.T.Antony Arul Raj
For 1 st Respondent	: Mr.Vinoth Kumar
For 2 nd Respondent	: Mr.K.Suyambulinga Bharathi Government Advocate (CrI.Side)

ORDER

This Criminal Revision Petition has been filed to stay operation of the impugned order dated 26.04.2017 made in Cr.M.P.No.1057 of 2017 on the file of the learned Judicial Magistrate No.VI, Madurai.

2. The petitioner is the defacto complainant in Cr.M.P.No.1057 of 2017. A case was registered for the offences under Sections 11(1) (d) of Prevention of Cruelty to Animals Act, 1960 and Section 429 of I.P.C. The petitioner has found a TATA AC Vehicle bearing Registration No.TN-84-W-9726 carrying nine cows, one bull and four calves for transportation. It clearly made out



violation of Transportation of Animals Rules. They were not carrying any papers as required by the Tamil Nadu Preservation of Animals Act. The first respondent, who is the first accused has filed a petition for return of the cattle in Cr.M.P.No.1056 of 2017. The learned Judicial Magistrate No.VI, Madurai passed an order returning the cattle to the accused, against the order, the petitioner has filed this petition.

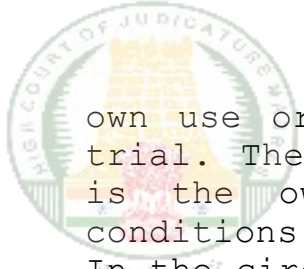
3.On the side of the petitioner it is stated that the accused is not entitled even, for an interim custody of the case properties. The defacto complainant was not given notice on that petition. The petitioner is in possession of the cattle and one of the cow, which died, after giving birth to a calf. Remaining out of eight cows, one bull and 4-calves and one newly born calf are in the custody of the petitioner. If the cattle is returned to the first respondent, they will be slaughtered.

4.On the side of the first respondent, it is stated that the first respondent is only an agriculturist. The cattle was purchased for doing diary business. He transported the cattle from Madurai to his native place. The complainant is not the owner and the second respondent has to hand over the cattle to the first respondent.

5.On the side of the first respondent it is stated that the case of the complainant is that the first respondent is transporting the cattle from Madurai to his native place not in a proper manner, but, the cattle was transported by the petitioner from Madurai to Virudhunagar in the same manner and that this was also gross violation of the same rules. On the side of the first respondent, it is further argued that Section 429 of IPC is not made out as no cruelty is alleged and which is not made out in this case and that for transportation of the cattle only a fine of Rs.50/- can be imposed. There is no question of cruelty to the animals. Only allegation is that they are being transported.

6.On the side of the first respondent it is further stated that the petitioner is not taking care of the cattle and his indulgence caused death of a cow, which was pregnant. The petitioner is liable for compensation to the first respondent. The petitioner himself has stated that another cow require treatment. The second respondent has registered a case 3 hours delay. He transported the cattle in the van from Madurai to Virudhunagar. The petitioner has no locus stand to keep the cattle with her.

7.Records perused. The petitioner is only the complainant, but, she is not owner of the cattle. The cattle was handed over to the petitioner for maintenance. In her custody one cow died, during the delivery and another cow requires medical treatment. In this circumstances, the maintenance of the cattle is not praiseworthy. Whether the accused transported the animals for his



own use or for any other purpose can be decided only after the trial. The animals requires maintenance and the first respondent is the owner of the animals. The lower court has imposed conditions to the first respondent for the custody of the cattle. In the circumstances, there is no merits in this petition filed by the petitioner and there is no need to interfere in the order passed by the trial court. Hence, this Criminal Revision Petition is dismissed. Consequently, connected CrI.MP(MD)No.4281 of 2017, is also closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.VI, Madurai.
2. The Sub Inspector of Police,
Perungudi Police Station,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.N.MUNIRAJ, ADVOCATE IN SR No. 60897

DAS

TE/KKR/SAR-3 : 04/05/2018 : 3P/7C

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11.04.2018