



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. (MD) No.911 of 2017

A.Manoharan

: Petitioner

Vs.

1. State rep. by
The Inspector of Police,
North Police Station,
Cuddalore,
Theni District.
Crime No.259 of 2016.

2. Chokki @ Girija

: Respondents

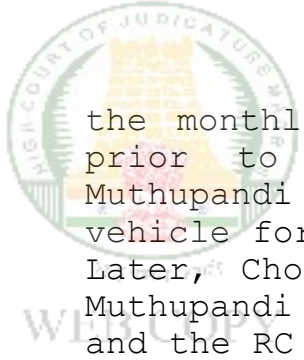
PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to set aside the order passed in Cr.M.P.No.3181 of 2017 on the file of the Judicial Magistrate Court, Uthamapalayam, Theni District, dated 16.05.2017.

For Petitioner	: Mr.G.Karuppasamy Pandiyan
For Respondent No.1	: Mrs.S.Bharathi, Government Advocate (Crl.side)
For Respondent No.2	: No Appearance

ORDER

On the complaint lodged by Chokki @ Girija, the first respondent police registered a case in Crime No.100 of 2017 on 13.04.2017 under Sections 420, 406 IPC and Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 against Muthupandi (A-1) and Selvakumar (A-2). It is the case of Chokki @ Girija that some 15 months prior to the date of First Information Report, she had borrowed Rs.3,00,000/- from Muthupandi (A-1) and that Muthupandi (A-1) was demanding exorbitant interest at the rate of Rs.30,000/- per month.

2. It is the further case of Chokki @ Girija that five months prior to the registration of the First Information Report, she purchased a passenger van, viz., TATA 407 Maxi Cab bearing Registration No.TN-30-P-8202 from one Selvakumar (A-2) by an agreement and appointed one Murali as driver; that she was paying



the monthly EMI towards the vehicle regularly and that one month prior to the registration of the First Information Report, Muthupandi (A-1) and his henchmen had forcibly taken away the vehicle for the loan payable by Chokki @ Girija to Muthupandi (A-1). Later, Chokki @ Girija learnt that the vehicle has been sold by Muthupandi (A-1) in connivance with Selvakumar (A-2) to one Kannan and the RC book also has been transferred. Hence, on the complaint, the First Information Report has been registered as stated above.

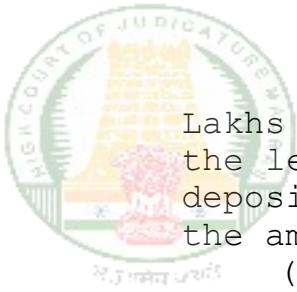
3. The police seized the van on 12.04.2017 as a case property and the van is now parked in the police station. Chokki @ Girija filed Cr.M.P.No.3163 of 2017 under Section 451 of the Code of Criminal Procedure for return of the van before the learned Judicial Magistrate, Uthamapalayam, where the First Information Report is pending. Manoharan, who had purchased the van from Selvakumar (A-2), filed Cr.M.P.No.3181 of 2017 under Section 451 r/w 457 of the Code of Criminal Procedure for return of the van. According to Manoharan, the van was purchased by him from Selvakumar (A-2) for valuable consideration of Rs.4,00,000/- on 26.04.2017 and the RC book stands in his name.

4. The Trial Court heard Cr.M.P.Nos.3163 of 2017 and 3181 of 2017 and has dismissed both the petitions by order dated 16.05.2017 on the ground that there is a serious dispute between Manoharan and Chokki @ Girija and, therefore, interim custody of the van cannot be given to either of them. Challenging the order dated 16.05.2017 in Cr.M.P.No.3181 of 2017, Manoharan has filed the present Criminal Revision Case.

5. The Trial Court has given a clear finding that the vehicle has been seized by the police on 12.04.2017 from the custody of Manoharan. There is also a clear finding that the RC book stands in the name of Manoharan. However, in the First Information Report, Chokki @ Girija has not stated as to the date on which she entered into the agreement with Selvakumar (A-2) and obtained the vehicle. On the contrary, the counsel for Manoharan has produced an agreement dated 07.09.2016 executed by Chokki @ Girija and her husband Arunkumar in favour of Muthupandi (A-1), wherein it is stated that for the loan obtained from him, they have handed over the said vehicle to Muthupandi (A-1). Strangely, in the First Information Report, Chokki @ Girija has alleged that the van has been illegally taken by Muthupandi (A-1) in connivance with Selvakumar (A-2) and the same has been sold to Kannan.

6. If the van continues to remain in the police station, it will not only occupy space there, but, will also soon get condemned. In such view of the circumstances, since the van was recovered from the custody of Manoharan and that the RC book stands in the name of Manoharan, this Court is of the view that it will be in the interest of justice, if the van is directed to be returned to Manoharan on certain conditions:-

(i) Manoharan shall deposit Rs.2,00,000/- (Rupees Two



Lakhs only) to the credit of Crime No.100 of 2017 before the learned Judicial Magistrate, Uthamapalayam and on such deposit, the learned Magistrate is directed to re-deposit the amount in any Nationalized Bank in a fixed deposit.

(ii) The petitioner shall execute a bond for Rs.50,000/- (Rupees Fifty thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Uthamapalayam;

(iii) The petitioner shall give an undertaking that he will produce the vehicle before the Trial Court as and when required;

(iv) The petitioner shall take photographs of the vehicle and submit the same to the Magistrate with a proper certification under Section 65(b) of the Indian Evidence Act;

(v) The petitioner shall not alienate the vehicle until further orders of the Trial Court.

(vi) The amount will be disbursed at the end of the trial depending upon the outcome of the case either to Chokki @ Girija or to the petitioner, if it is found that Chokki @ Girija had been really cheated.

7. In the result, the order dated 16.05.2017 in respect of Cr.M.P.No.3181 of 2017 on the file of the Judicial Magistrate Court, Uthamapalayam, Theni District, is set aside and the Criminal Revision Case is allowed to the extent indicated above.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate Court,
Uthamapalayam, Theni District.
2. The Inspector of Police,
North Police Station,
Cuddalore, Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.S.MUNIYANDI, ADVOCATE IN SR No. 49482

+ 1 CC TO Mr.G.KARUPPASAMY PANDIAN, ADVOCATE IN SR No. 49533

SML

TE/SV-MMS/SAR-2 : 28/02/2018 : 3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>

Order made in
Cr1.R.C. (MD) No.911 of 2017
Dated:-19.02.2018