



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Reserved On: 29.06.2018
Pronounced On: 02.08.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Cr1.R.C.(MD)No.352 of 2018

Roy M.Mathew

...Petitioner/Petitioner/
Defacto Complainant

Vs.

State Through,
Inspector of Police,
District Crime Branch,
Sivagangai
In Crime No.20/2015

... Respondent/
Respondent/Complainant

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for records of the order dated 28.05.2018 in Cr.M.P.No.702 of 2018 in R.P.R.No.43/2017 on the file of the learned Judicial Magistrate No.2, Sivagangai in Crime No.20 of 2015 and set aside the same and allow this Criminal Revision Petition.

For Petitioner	: Mr.N.Ananthapadmanaban for M/S.APN Law Associates
For Respondent	: Mr.M.Chandrasekaran Additional Public Prosecutor

ORDER

Heard the learned counsel on either side.

2.This Criminal Revision Petition has been filed to set aside the order passed in Cr.M.P.No.702 of 2018 in R.P.R.No.43/2017 dated 28.05.2018 by the Judicial Magistrate No.2, Sivagangai.

3.On the complaint of the petitioner, a case was registered in Crime No.20 of 2015 by the respondent Police. Pursuant to that case, one B.M.W. Car was seized by the Police. The petitioner filed a petition for return of the property and the same was dismissed by the Judicial Magistrate No.2, Sivagangai.

4.On the side of the petitioner, it is submitted that the petitioner is the Chairman of the Muthoottu Mini Finance Company and that the accused in this case swindled a sum of Rs.6.5 crores from the petitioner and thereby, he purchased some properties and that this property was purchased by one accused of the Arivu @ Arivu

sudar @ Arasu in the name of one Jayapaul.

5. Neither the accused nor the said Jayapaul filed any petition for return of the said property. The car is not yet to be registered and also not yet insured. It is further submitted that a person by name Kumar claiming as the Financier of the vehicle, has filed a petition in Cr.M.P.No.3591 of 2017 for the return of the said car and the same was dismissed by the trial Court.

6. On the side of the respondent, it is submitted that the property does not belong to either the petitioner or the accused. The property is temporarily registered in the name of one Jayapaul and he has not come forward to get the property.

7. Records perused. The said vehicle is temporarily registered in the name of the one Jayapaul and this fact is admitted by both sides. Mr. Kumar, who is said to be the Financier, has filed a petition before this Court for return of property and the same was dismissed. The vehicle is a brand new costly vehicle which is not yet registered. If left in open place, this will be heavy depreciation in the vehicle.

8. But the petitioner is claiming that the amount for the Car is swindled from him. A person claiming as a Financier also is there. Ownership of the vehicle will be decided by the trial Judge, on completion of the trial. But in the above circumstance, to prevent the vehicle getting spoiled by sunlight and rain, it should be handed over to someone who can maintain the vehicle till the trial is over. Hence, as a temporary measure, this Court has decided to hand over the vehicle to the petitioner for temporary safe custody on the following conditions until the ownership of the vehicle is properly decided by the trial Court. Hence, the impugned order passed by the learned Judicial Magistrate No.2, Sivagangai, dated 28.05.2018 in Cr.M.P.No.702 of 2018 in R.P.R.No.43/2017 is to be set aside. Accordingly, the learned Judicial Magistrate No.2, Sivagangai is directed to return the vehicle namely B.M.W. car to the petitioner under the following conditions:

(i) The petitioner has to execute a bond with two sureties for a like sum to the satisfaction for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only), before the learned Judicial Magistrate No.2, Sivagangai;

(ii) The petitioner has to undertake not to alter or alienate or encumber the vehicle;

(iii) The petitioner can register the vehicle in his personal name but he cannot claim ownership of the property.

(iv) The petitioner is directed to surrender the R.C. Book before the learned Judicial Magistrate, Sivagangai



within a period of fifteen days from the date of issuance of the R.C.Book;

(v) The petitioner is directed to insure the vehicle and to renew the same periodically and to submit the copy of the insurance Certificate before the concerned Court within ten days whenever the insurance is renewed;

(vi) The petitioner is directed to undertake that proper service and maintenance of the vehicle to be done periodically at his own cost;

(vii) The petitioner cannot claim the charges for the maintenance, insurance, registration charges, etc till the vehicle is in his custody;

(viii) The petitioner has to sign the transfer form in favour of the designation of the Court and to file same to the learned Judicial Magistrate No.II along with the original R.C. book;

(ix) The petitioner has to undertake to sign the transfer form to the owner of the vehicle after the ownership is fixed by the Court as per the directions of the Court;

9. Accordingly, this Criminal Revision is allowed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar(CS-4)

To

1.The Judicial Magistrate No.2,
Sivagangai.

2.The Inspector of Police,
District Crime Branch,
Sivagangai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cC to Mr.N.Anantha Padmanaban, Advocate in SR.No.76748.

MRN

DS/SKN-RSKS/SAR-4 :03.08.2018: 3P/5C

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