



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2018

CORAM:

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THE HONOURABLE MRS. JUSTICE. R. THARANI

Cr1.RC(MD)No.381 of 2018

Sivakumar ...Petitioner /Petitioner
-vs-

The State through the Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
(Crime No. 367 of 2016) ...Respondent/Respondent

PRAYER: Criminal Revision filed Under Section 397 r/w Section 401 of Cr.P.C., to call for the entire records in respect of the impugned order dated 03.01.2018 made in Cr.M.P.No.3280 of 2017 on the file of the learned District Munsif Cum Judicial Magistrate, Ilayangudi and to set aside the same and consequently to direct the learned Judicial Magistrate, Ilayangudi to return the RC book of the petitioner's car and to permit him to dispose his car.

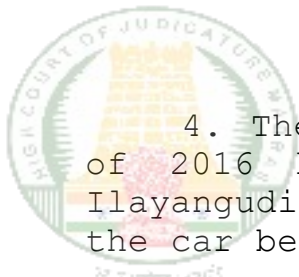
For Petitioner : Mr.M.S.Jeyakarthik
For Respondent : Mr.M.Chandrasekaran,
Additional Public Prosecutor

ORDER

This petition is filed to set aside the order passed by the learned District Munsif Cum Judicial Magistrate, Ilayangudi in Cr.M.P.No.3280 of 2017, dated 03.01.2018 and to direct the Magistrate to return the RC Book of the petitioner and to permit him to dispose his car.

2. The case of the prosecution is that on 15.12.2016, at about 08.30.p.m, the accused persons have stolen a sum of Rs.13 lakhs from the complainant and a case was registered in Crime No.367 of 2016 for the offences punishable under Sections 395, 397, 212, 120 (b) of I.P.C and Section 3 of PPDL Act 1992 r/w 34 I.P.C. A Xylo Car bearing Registration No.T.N.05 AM 8035 was seized from the accused and was remanded before the learned District Munsif Cum Judicial Magistrate, Ilayangudi, in P.R.No.1 of 2017.

3. The petitioner has filed a petition before the learned District Munsif Cum Judicial Magistrate, Ilayangudi and demand the car for interim custody by filing petition in Cr1.M.P(MD)No.249 of 2017. On 16.07.2018, the car was returned to the petitioner, but the R.C.Book was retained by the Court.



4. The petitioner has filed a petition in CrI.M.P.(MD)No.367 of 2016 before the District Munsif Cum Judicial Magistrate, Ilayangudi for return of the R.C.Book and for permission to sell the car bearing Registration No.T.N.05 AM 8035.

5. On the side of the petitioner, it is stated that the petitioner is not an accused in this case. The Vehicle was used by the friends of the petitioner without his knowledge. The petitioner is not having any other source of income but to sell the vehicle for which, R.C.Book is also needed. It is further stated that this Court in a similar situation has passed such an order that during the time of trial the photograph of the seized vehicle is sufficient to continue the trial. He has also submitted a judgment in (2015) 3 MLJ (CrI) 583.

6. On the side of the respondent it is stated that the car is essential for proving the case and this petition is seriously objected.

7. Records perused. It is stated by the learned counsel for the petitioner that petitioner is the owner of the property and he got interim custody of the vehicle only on condition that he should not alter or alienate the property. There is a possibility for the court to pass an order of confiscating the vehicle. In such cases, if the property was already sold to third person, there will be complication in confiscating.

8. In such circumstances, the permission to sell the property cannot be given at this stage. The property is essential till the disposal of the case. R.C.Book is required by the petitioner only for selling the property. The vehicle is essential for the disposal of the case and there may be a chance for to be confiscated to Government. In the above circumstances, R.C.Book cannot be returned for selling the car. There is no merits in this petition and hence, this petition is not maintainable.

9. Accordingly, this Criminal Revision petition is dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The District Munsif Cum Judicial Magistrate,
Ilayangudi.

2. The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.



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

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