



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
Crl.R.C(MD)No.482 of 2018

Lakshmanan : Petitioner/Petitioner/ Accused

Vs.

State Rep. by
The Inspector of Police,
Kadayam Police Station,
Tirunelveli District. : Respondent/Respondent/Complainant

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records in Cr.M.P.No.2277 of 2018 on the file of the learned Judicial Magistrate, Ambasamudram and set aside the order dated 13.06.2018 by allowing the above petition.

For Petitioner : Mr.P.Subbiah
For Respondent : Mr.A.Robinson,
Government Advocate (crl.side).

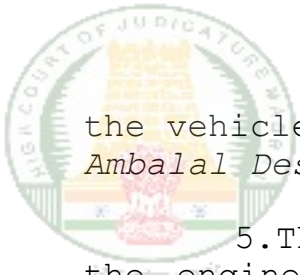
ORDER

This Criminal Revision case is filed praying to call for the records in Cr.M.P.No.2277 of 2018 on the file of the learned Judicial Magistrate, Ambasamudram and set aside the order dated 13.06.2018.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3.Aggrieved by the dismissal of the petition filed under Section 451 Cr.P.C, the present criminal revision case has been filed.

4.The brief facts of the case is that the Auto Rickshaw bearing Registration No. TN76 B 1645 stands in the name of the petitioner. On 13.05.2018 at about 9.00 am, when the Auto Rickshaw was intercepted by the Inspector of Police, Kadayam Police Station, ten bottles of IMFL liquor was seized from the vehicle. The driver, who is the petitioner herein, was also arrested for possessing liquor without any valid licence and the vehicle was seized. The petitioner who is the accused has filed an application for return of



the vehicle, quoting the judgment of the Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat* reported in AIR 2003 SC 638.

5. The trial Court while considering the petition found that the engine number in the RC Book differs with the engine number found in the vehicle. The petitioner herein has filed an affidavit of one Sakthi Manikandan, Auto Mechanic, who has explained how the engine number got tampered. According to his affidavit when the vehicle was given to him to attend some mistake, he found that the engine cover was damaged and there was a big hole on the bottom cover. Therefore, he substituted the bottom cover with another unused engine available with him, as a temporary measure.

6. Considering the nature of the offence, the affidavit filed by the petitioner herein and supporting affidavit, without adverting to the reason for the change in the engine number, this Court is of the view that the vehicle instead of keeping ideal open to the sky, shall be returned to the petitioner on terms. Accordingly, this Criminal Revision Case is allowed on the following conditions:-

(i) The vehicle bearing Registration No. TN76 B 1645 shall be returned to his owner Mr. Lakshmanan, on his executing a bond for a sum of Rs. 1,00,000/- and also executing an affidavit of undertaking that he will not change the physical features of the vehicle till the disposal of the case.

(ii) He shall produce the vehicle before the trial Court on the first Monday of every English calendar month.

(iii) The photograph of the vehicle as well as the engine shall be taken, before handing over the vehicle to the petitioner and the same shall be kept on record.

7. At this juncture, the learned counsel for the petitioner would submit that the original bottom of the engine, after fixing the hole, is made ready and he may be permitted to fix the original bottom of the engine carrying the correct engine number. The petitioner is permitted to make alteration in the engine only to that extent and no other alteration shall be carried out.

Sd/

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate, Ambasamudram.

2. The Inspector of Police,
Kadayan Police Station,
Tirunelveli District.



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

+1cc to Mr.P.Subbiah, Advocate, SR.No. 79396

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CP
KK/RP/SAR-3/05.09.2018/3P-5C