

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2019

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C. 629 of 2019

M.Nagarajan

..Petitioner/ Petitioner

Versus

State rep. by
The Inspector of Police,
Nesarathpet Police Station,
Tiruvallur District.
(Crime No.1247 of 2018)

...Respondent/ Complainant

PRAYER: Revision Petition is filed under Section 397 r/w 401 Criminal Procedure Code, praying to set aside the order of dismissal made in Crl.M.P. No.2047 of 2019 dated 26.04.2019 on the file of learned Judicial Magistrate No.I, Poonamallee.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.Mohamed Riyaz,
Addl. Public Prosecutor

O R D E R

This Revision Petition has been filed seeking to call for records pertaining to the order made in Crl.M.P.No.2047 of 2019 by the learned Judicial Magistrate No.I, Poonamallee and to set aside the same and direct the learned Judicial Magistrate No.1, Poonamallee to return the RC Book of the vehicle bearing Regn. No.TSG-2667, Engine No.692D01 285918, Chasis No.34073 278440.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle, a lorry bearing Regn. No.TSG-2667 and that the above said vehicle was seized by the Tahsildar, Poonamallee during routine check-up on the allegation that it was used for illicit transport of sand. He would further submit that on a complaint given by the Tahsildar, the respondent police registered a case against the petitioner in Crime No.1247 of 2018 under Sec. 379 and 420 I.P.C. The vehicle along with RC book was later handed over to the Court.

3. Thereafter, the petitioner has filed a Writ Petition before this Court in W.P.No.7018 of 2019 and this Court by an order dated 18.03.2019 allowed the Writ Petition and directed to release the vehicle on imposing certain conditions to the revenue authorities. Thereafter, based on the order passed by this court, the vehicle was returned, however, the RC Book was retained by the learned Judicial Magistrate No.I, Poonamallee. The petitioner in order to obtain a fitness certificate had filed a petition in Crl.M.P. No.2047 of 2019 seeking for return of RC Book and the learned Judicial Magistrate by an order dated 26.04.2019 has dismissed the petition.

4. The learned counsel appearing for the petitioner would further submit that the petitioner is the owner of the vehicle and he is not an accused in the case registered in Crime No.1247 of 2018 by the respondent and that the vehicle has been used for that offence without his knowledge and that the charge sheet has not been filed so far. He would submit that the vehicle is used as a public transport vehicle and now, since the fitness certificate issued has lapsed, he is unable to use the vehicle, thereby, he is put to severe hardship and the RC book is needed for renewing the Fitness certificate. Hence, the petitioner has filed a petition to return the RC book for producing it before the transport authorities. However, the learned Judicial Magistrate No.1, Poonamallee has dismissed the same.

5. The respondent had filed a counter before the Trial Court stating that if the RC book is returned to the petitioner, the petitioner will involve in similar offence.

6. The learned counsel appearing for the petitioner would submit that at the time of admission, before this Court in W.P.No. 7018/2019, the petitioner has given undertaking not to involve the vehicle in question for any illegal activities in future and he has also given undertaking to produce the same as and when required by the respondent. After release of the vehicle, it has not been involved in any illegal activities. Now, the petitioner is seeking interim custody of the RC book for three months in order to obtain a fitness certificate and to carry out the formalities for obtaining the fitness certificate.

7. In view of the same, the order dated 26.04.2019 passed by the learned Judicial Magistrate No.I, Poonamallee in Crl.M.P.No.2047 of 2019 is set aside. Further, the learned Judicial Magistrate is directed to hand over the interim custody of RC book of the vehicle bearing Regn. No.TSG-2667 Engine No.692D01 285918, Chasis No.34073 278440 to the petitioner for the period of three months from the date of receipt of the copy of this order on condition that the petitioner shall execute a

bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the concerned Judicial Magistrate and the petitioner shall file an undertaking affidavit before the learned Judicial Magistrate No.I, Poonamallee to return the RC book after completion of Fitness Certificate formalities within a period of three months from the date of handing over of RC book.

8. With the above observation, the present Criminal Revision Petition stands ordered.

rpp

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Public Prosecutor,
High Court, Madras.

2. The Judicial Magistrate No.I,
Poonamallee.

+1cc to Mr.R.Sasikumar, Advocate, SR.No.78753

Cr1.R.C. 629 of 2019

Kak(16/10/2019)

सत्यमेव जयते

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