

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.10.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.782 of 2019

G.Velmurugan .. Petitioner/Accused

Vs

State rep by
Forest Ranger Officer,
Tirupattur Range,
Vellore District.
(WLOR.No.3/2019)

.. Respondent/Complainant

Prayer:- This Criminal Revision Petition is filed, under section 397 read with 401 of Cr.P.C., to call for the records in Crl.M.P.No.2655/2019, dated 28.06.2019, by the learned Judicial Magistrate No.II, Tirupattur, Vellore District and set aside the same and to direct the respondent herein to return the vehicle namely, TATA Sumo bearing Reg.No.TN73 W 6968, in WLOR No..3/2019, on the file of the respondent to custody of the petitioner.

For Petitioner : Mr.G.Vinoth Kumar

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Revision Petition has been filed by the petitioner/accused, seeking to set aside the order, dated 28.06.2019, made in Crl.M.P.No.2655/2019, by the learned Judicial Magistrate No.II, Tirupattur, Vellore District and to direct the respondent to return the vehicle namely, TATA Sumo bearing Reg.No.TN73 W 6968, in WLOR No.3/2019.

2 This Court heard the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor, appearing for the respondent.

3 The case of the prosecution in a nutshell as per the complaint given by the Forest Ranger Officer, Tirupattur Range, Vellore District is that on 07.03.2019, at about 11.00 a.m., while the officials of the Forest Department were doing their patrolling duty, they had seen two persons having

trespassed into the reserved forest and one of the persons was having country made gun whose identity was not known and the other person was identified to be G.Velmurugan, S/o.Govindraj. When they had attempted to apprehend, they ran away and while they were coming back, they had seen a vehicle namely TATA SUMO (Gold) bearing Registration No.TN73-W-6968, parked near the boundary line of the forest. Since, the door of the vehicle was not locked, they have opened the vehicle and during search, the respondents had found a country made gun, one search light and a xerox copy of the Form-23, Certificate of Registration of the vehicle and also found a purse containing Identity Cards and other details belonging to Velmurugan and after completion of the formalities they seized all the articles and the vehicle and handed over the same to the Forest Office and registered a case in WLOR No.3/2019. Thereafter, the vehicle was produced before the Court. The petitioner Velmurugan who was arrayed as A-1 in the case had obtained anticipatory bail and thereafter the petitioner had filed a petition in Crl.M.P.No.2655/2019, seeking for return of vehicle.

4 The respondent/complainant had filed written memo, stating that the petitioner is an accused in this case and that there was yet another case pending before the learned Judicial Magistrate No.II, Tirupattur and that the petitioner was habitually indulging in forest related offences and that the vehicle was also suspicious one.

5 The learned Trial Judge though rendered a finding that there is no doubt that the petitioner is the owner of the vehicle, had dismissed the petition stating that the petitioner/accused already involved in the same kind of offence and if the vehicle returned to the petitioner it will be involved in the same offence in the future. Against which, the present criminal revision has been filed.

6 The learned counsel for the petitioner would submit that the petitioner is working in the Police Department and that on the particular day, the petitioner had gone to a Temple in the nearby forest area and parked the vehicle outside of the reserve forest area and that when he had return back, he had found his vehicle was missing and that immediately he had sent a online complaint to the local police, which has been registered in Reference No. HRV 19023732. He would further submit that due to the previous enmity, the respondents are repeatedly implicating the petitioner in false cases and that since, the petitioner is contesting the earlier case, they have falsely registered yet another case against him. He would further submit that though the respondents have objected stating that the ownership of the vehicle is in suspicion and there is no valuable legal document for the same, the petitioner had proved his ownership

and the Trial Court has also not doubted ownership of the vehicle. However, taking into consideration, that the petitioner is involved in an earlier offence and finding that it will be involved in the same offence in future had dismissed the same. He would submit that the petitioner is the owner of the vehicle and due to seizure of the vehicle, the petitioner and his family are put to untold suffering. He would submit that the vehicle is parked in the open space within the premises of the respondent police and thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby putting the petitioner to hardship. He would submit that the petitioner is prepared to give an affidavit of undertaking that the vehicle will not be used for any offence in the future and he will not dispose of or alter the appearance of the vehicle in any manner.

7 The learned Additional Public Prosecutor would submit that the Engine Number and the Chasis Number which is shown in the vehicle differs from the Engine Number mentioned in the RC Book and thereby, the respondent entertains a doubt regarding the ownership of the vehicle. He would further submit that the petitioner is involved in a previous case registered by the respondent. The learned Additional Public prosecutor submitted that no proceedings has been initiated by the respondent till date for confiscation of the vehicle so far.

8 This Court by order dated 01.10.2019, had called for a report from the learned Judicial Magistrate No.II, Tirupattur to find out whether the Engine Number and the Chasis Number of the vehicle, bearing Registration No.TN73 W 6968 were noted at the time, when the vehicle was initially produced before the Trial Court under Form-95. This Court had received a report from the learned Judicial Magistrate No.II, Tirupattur, dated 15.10.2019, wherein it has been stated that the Chasis Number was noted and the Engine Number was not noted. However, the chasis number is the same and the engine number found in the vehicle is different from the number in the RC Book. The Trial Court though having not doubted the ownership, had dismissed the petition stating that if the vehicle is returned it will be used by the petitioner for a similar purpose.

9 In such circumstances, this court is of the opinion that there is no purpose in keeping the vehicle idle in the respondent police station which will result, in the value of the vehicle getting diminished.

10 Accordingly, this criminal revision petition is allowed and the impugned order passed by the Trial Court, dated 28.06.2019, in CrI.M.P.No.2655/2019, by the learned Judicial Magistrate No.II, Tirupattur, Vellore District, is hereby set aside and that interim custody of the vehicle in question, bearing registration number TN73 W 6968, be handed

over to the petitioner, subject to the following conditions:

a. The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties.

b. The petitioner shall produce the RC Book of the vehicle in question before the Trial Court and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court as and when required by the Trial Court for trial.

c. The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

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To:

1. The Judicial Magistrate No.II,
Tirupattur, Vellore District.
2. The Forest Ranger Officer,
Tirupattur Range, Vellore District.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.G.Vinodh, Advocate SR.87460

Cr1.R.C.No.782 of 2019

NMI (CO)
CB(26/11/2019)