

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.794 of 2019

Kumar

.. Petitioner

Vs

1. The State rep. by
The Station House Officer,
Kandachipuram Police Station,
Villupuram District,
(Crime No.135 of 2019)
2. Rajeev Gandhi
(R2 is impleaded as per order in
Crl.M.P.No.13123 of 2019 in
R.C.No.794 of 2019 dated 12.09.2019) .. Respondents

Prayer:- Criminal Revision Case filed under section 397 and 401 Cr.P.C., to call for the records relating to the order dated 31.07.2019 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram, in C.M.P.No.1207 of 2019 and set aside the same.

For Petitioner : Mr.G.Magesh Kumar

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : No Appearance

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O R D E R

The Criminal Revision has been filed by the petitioner against the order dated 31.07.2019 made in Crl.M.P.No.1207 of 2019 in Crime No.135 of 2019, by the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram, dismissing the petition for return of property and to direct return of the vehicle Hero Motor Car

Limited Splender-Pro, bearing Registration No.TN-16-Z-5145 to the petitioner.

2 Heard the learned counsel on either side.

3 Notice was sent to the de-facto complainant and he has been served. Proof Affidavit has also been filed. Further, the respondent police has also intimated. In spite of the same, his name being printed in the cause list, there is no representation for the 2nd respondent/de-facto complainant.

4 The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle viz., Hero Motor Car Limited Splender-Pro bearing Registration No.TN-16-Z-5145 and that the said vehicle had been seized in Crime No.135 of 2019 registered by the respondent police for the offences under Sections 147, 148, 294(b), 323, 324, 506(ii), 307 of IPC, read with Sections 3(1)(2)(s), 3(2)(va) of the SC/ST (POA) Act, 2015. He would further submit that during the course of investigation, the vehicle has been seized and produced before the Court in C.P.No.03 of 2019. He would further submit that the petitioner being the owner of the vehicle, had filed a petition under Section 451 CrPC., to grant interim custody of the vehicle to the petitioner and the same was dismissed by the Court below. The Trial Court in that case had rendered a finding that if the vehicle is handed over to the petitioner for interim custody, the petitioner may dispose of the said vehicle and it was further finding that if the accused is convicted, his movable property is likely to be confiscated to Government under Section 7 of the SC/ST (POA) Amendment Act, 2015 and had ultimately the petition filed under Section 451 CrPC, was dismissed by the Court below, by the impugned order dated 31.07.2019.

5. The learned counsel appearing for the petitioner would submit that till date, the vehicle has not been confiscated. He would further submit that the petitioner is the owner of the vehicle and it is left open and exposed to rain and sun, the value of the vehicle would diminish. He would further submit that the petitioner undertakes to produce the said vehicle as and when required by the court, during the course of trial and would submit that he will not dispose of the vehicle or alter or modify the appearance of the vehicle and the petitioner is prepared to return the vehicle as and when required by the Trial Court.

6 The learned Additional Public Prosecutor would submit that the petitioner is an accused in Crime No.135 of 2019 registered by the respondent police under Sections 147, 148, 294 (b), 323, 324, 506(ii), 307 of IPC read with Sections 3(1)(2)

(s), 3(2)(va) of the SC/ST (POA) Act, 2015, and the vehicle has been used during the commission of offence and that it is required for the purpose of trial.

7 The respondent police has filed a counter affidavit by stating that based on the complaint registered by one Rajiv Gandhi, the case has been registered against 22 persons and during the course of the investigation, five two wheelers have been seized and the present vehicle belongs to A9 in this case.

8 Taking into consideration the submissions made by the learned counsel on both sides and in view of the undertaking given by the petitioner that the vehicle will not be altered/modified from its physical appearance and sold, this Court is of the opinion that the interim custody of the vehicle may be granted to the petitioner imposing certain conditions.

9 Accordingly, the criminal revision petition is disposed of and the order passed by the Trial Court, dated 31.07.2019 made in CrI.M.P.No.1207 of 2019, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hereby set aside and that the learned Sessions Judge, is directed to return the vehicle, 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 file an affidavit of undertaking that he will not dispose of or alter the vehicle in question 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 (CS-IV)

//True copy//

Sub Assistant Registrar

msm

To

1. The Sessions Judge, Special Court for Exclusive
Trial of Cases Registered under the SC&ST (POA) Act, 1989,
Villupuram.

2. The Station House Officer, Kandachipuram Police Station,
Villupuram District, (Crime No.135 of 2019)

3. The Public Prosecutor, High Court, Madras.

+lcc to Mr.G.Magesh Kumar, Advocate SR.No.83387

Cr1.R.C.No.794 of 2019

GP (CO)
GMY (06/11/2019)



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