

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1012 of 2019

Muhamad Sheriff

... Petitioner/Accused

Vs

State rep by
The Inspector of Police,
Santhavasal Police Station,
***Thiruvannamalai** District.
(Crime No.348/2019)

... Respondent/Complainant

Prayer: This Criminal Revision Petition has been filed, under Section 397 read with 401 of Cr.PC, to set aside the order dated 03.09.2019, made in Crl.M.P.No.242/2019, by the learned Judicial Magistrate Court, Polur.

For Petitioner : Mr.K.V.Sanjeev Kumar
For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

- 1.This Criminal Revision Petition has been filed by the petitioner/accused, seeking to set aside the order passed in Crl.M.P.No.242/2019, dated 03.09.2019, made in Crime No.348/2019, by the learned Judicial Magistrate Court, Polur, dismissing the petition filed under Sections 451 and 457 of Cr.P.C., seeking for return of the seized bulls.
- 2.The brief facts of the case is that the petitioner/accused is the owner of six bulls and that on 27.07.2019, he had purchased the bulls in the cattle santhai/market in Kelur Village. He had fixed with the owner of the lorry, bearing registration No.TN5 R 6166, to transport the bulls purchased by him and deliver it at his village in Kerala. During the same time some other persons had also purchased six bulls from the same market. The owner of the lorry has transported the bulls purchased by the other persons in the same lorry and when the lorry was crossing the respondent police limits, the lorry had been intercepted by the respondent police and contending that the bulls were

transported in violation of the Provisions of the Prevention of Cruelty of Animals Act, 1960, a case had been registered by the respondent police in crime No.348/2019, for the offences under Sections 428, 353, 506(1) of IPC read with 11(1)(d) and 11(1)(h) of the Prevention of Cruelty of Animals Act, 1960. The bulls were taken into custody by the respondent police. The petitioner had filed Crl.M.P.No.242/2019, seeking for return of property. The respondent had not raised any serious objections however, the Trial Court, holding that the said lorry owner had transported 30 bulls in the same lorry in a cruel manner in a long way from Kelur to Palakad, Kerala State and finding that the petitioner being the owner of the bulls has himself subjected the bulls to cruelty in violation of Provisions of Cruelty of Animals Act, 1960, by order dated 03.09.2019, had dismissed the petition for return of bulls. Against which, the present criminal revision petition has been filed.

- 3.The learned counsel for the petitioner/accused would submit that the petitioner/accused is an agriculturist and that he had purchased six bulls from the cattle market and entrusted the same for transport to the lorry owner. However, without his knowledge, the lorry owner had transported more cattles, resulting in the respondent registering the above case. He would submit that the petitioner/accused is a poor agriculturist and he had purchased the bulls only for the purpose of using it for agriculture and not for the purpose of butchering. He would submit that the learned Judicial Magistrate, wrongly referring to the order passed by this Court in Crl.R.C.No.777/2010, dated 14.03.2013, had dismissed the petition. He would submit that the facts in Crl.R.C.No.777/2010, remains that the bulls were admittedly transported by the owner in the lorry to Kerala for the purpose of butchering and this Court also found that the bulls were to be transported in an inhuman manner to Kerala continuously for the period of 48 hours even without providing fodder or water. He would further submit that the order in Crl.R.C.No.777/2010, will be applicable only in the event if the bulls are found to be smuggled for the purpose of smuggling and further this Court had also found that the petitioner in this case had previous cases against him for having violated the Provisions of the Prevention of Cruelty of Animals Act, 1960.
- 4.The learned counsel for the petitioner would further submit that in the present case on hand, there is nothing on record to show that the petitioner had smuggled the cattle for the purpose of butchering and that the petitioner is a poor agriculturist and that he had purchased three bulls from one Selvi, W/o. Subramani and three other bulls were purchased from one Subramani, S/o. Chinnappa. More over, the bulls have been transported from Tiruvannamalai to the petitioner's native

place at Palakad, Kerala State. The bulls are now in the custody of the respondent without any proper care and would seek for return of bulls to the petitioner. Further, the learned counsel for the petitioner would submit that the petitioner is prepared to comply with any stringent condition and that he is prepared to abide by any condition that may be imposed to him.

5. The respondent had filed a counter, wherein, it had been stated that since the petitioner/accused along with other persons were found transporting 30 bulls in one lorry, the respondent had registered a case in Crime No.348/2019 and it had been further submitted that 30 bulls were transported in a congested manner and thereby, the bulls were subjected to cruelty.
6. The learned Additional Public Prosecutor, would submit that 30 bulls were transported in a lorry in a congested manner and they have been transported in a standing manner in violation of the Provisions of the Prevention of Cruelty of Animals Act, 1960 and when the respondent had questioned the driver of the lorry, he had been threatened by the lorry driver and the owners of the cattle.
7. This Court heard the submissions of the learned counsel on either side and also perused the materials available on record.
8. Since, it was found that the 30 cattles were transported in a congested manner in a standing position, the respondent had registered the case. In respect of the case in CrI.R.C.No.777/2010, dated 14.03.2013, referred to by the learned Magistrate, it has been admitted by the owner of the cattle in that case that 30 cattles have been taken to Kerala for butchering purpose and finding that there were injuries on the cattle and also finding that the owner was already convicted on previous offence, had dismissed the petition. In this case, the petitioner is an agriculturist and he has purchased the bulls for the purpose of agriculture and that he is a person from Palakad, Kerala State and that the bulls have been purchased from Tiruvannamalai and they have been taken to Palakad, Kerala State. Therefore, this Court is of the opinion that the interim custody of the cattles may be handed over to the petitioner on imposition of certain conditions.
9. In view of the same, the criminal revision is allowed and the order passed by the learned Judicial Magistrate, Polur, in CrI.M.P.No.242/2019, in Crime No.348/2019, dated 03.09.2019 is set aside and the interim custody of the cattles are handed over to the petitioner on the following conditions:

(a)The petitioner shall execute a bond for a sum of Rs.60,000/- [Rupees Sixty Thousand Only] with two sureties for a like sum.

(b)The petitioner is directed to take individual photographs of the bulls and hand it over to the Trial Court.

(c)The petitioner is directed to file an affidavit of undertaking that the bulls will be maintained properly and will not be treated cruelly and that it will be transported in a safe manner and that it will be used only for agricultural purpose and if necessary the bulls will be produced before the Trial Court as and when required by the Trial Court, during trial.

-s/d-
Assistant Registrar
Dated : 18/11/2019

***Corrected as per order dated 26/11/19
made in CrI.MP No.17390/19 in CrI RC No.1012/19**

-s/d-
Assistant Registrar(IV)
Dated : 27/11/2019

True Copy

Sub-Assistant Registrar

ssi

**To be Substituted as per order
already despatched on 20/11/2019**

To:

1.The Judicial Magistrate Court,
Polur.

2.The Inspector of Police,
Santhavasal Police Station,
***Thiruvannamalai** District.

3.The Public Prosecutor,
High Court, Chennai.

+lcc to Mr.K.V.Sanjeev Kumar, Advocate SR.No.98340(28/11/2019)

CrI.R.C.No.1012 of 2019

aa19/11/2019

GMV(27/11/2019)