

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.11.2019

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1131 of 2019

G.Srinivasan
Petitioner

..

Vs

State rep by
The Inspector of Police,
Ammamet Police Station, Salem District.
(Crime No.44/2018)

.. Respondent

Prayer:- This Criminal Revision Petition is filed, under section 397 read with 401 of Cr.P.C., to set aside the order dated 10.01.2019, passed in C.M.P.No.6009/2018, on the file of the learned Judicial Magistrate No.V, Salem.

For Petitioner : Mr.R.Nalliyappan
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 dated 10.01.2019, passed in C.M.P.No.6009/2018, by the learned Judicial Magistrate No.V, Salem.
2. This Court heard the learned counsel for the petitioner and the learned Additional Public Prosecutor, appearing for the respondent.
3. The case of the prosecution in a nutshell is that the petitioner is the 3rd party/owner of the Innova Car, bearing registration No.TN20 BV 0333 and bearing Chasis No.MBJ11JV4007202022 and Engine No.2KD6441554. The petitioner had purchased the vehicle from one B.Maboobkhan on 13.06.2017 and thereafter, the petitioner had handed over the said car to his friend namely Hari, who had in turn handed over the car to one Kirubakaran and thereafter, the car of the petitioner had been misused by the accused by changing the number plate of the car as TN54 L 6666 and it had been seized by the respondent in Crime No.443/2018, dated 29.06.2018, registered for the offence under Sections 147, 364-A IPC. The petitioner had filed Crl.M.P.No.6009/2018, seeking for return of the property and the Trial Court, by order dated 10.01.2019, had dismissed the petition, stating that the registration number of the vehicle is different

from the number found in the RC Book and finding that no authentic proof has been submitted and that the case is exclusively triable by the Court of sessions. As against the same, the present Criminal Revision Petition has been filed.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and that the registration number is TN20 BV 0333, however, the accused without his knowledge have changed the number plate of the vehicle and they have used the vehicle as if the registration number was TN54 L 6666. She would submit that the engine number and the chasis number of the vehicle tallies with the engine number and chasis number found in the RC Book and that the original registration number is TN20 BV 03333 and that the petitioner is not an accused. She would further submit that since the vehicle is kept in the open place, exposed to vagaries of weather, the vehicle is getting damaged and the value of the vehicle is getting diminished and thereby, the petitioner is put to great hardship and would seek for return of the vehicle.
5. The respondent/complainant had filed a counter, stating that the vehicle has been used by the accused, by changing the number plate and the case was registered in respect of kidnapping and that the registration number of the vehicle found is TN54 L 6666, whereas, it is different in the R.C.Book. However, he would submit that the Engine Number and the Chasis Number tally with the numbers found in the RC Book produced by the petitioner.
6. Heard Both sides and perused the available materials placed on records.
7. The petitioner is the third party/owner of the property and he is not an accused in Crime No.44/2018, before the Trial Court. It had been contended by the respondent that the vehicle used for the commission of the offence was recovered from the accused. Further, the accused Kirubakaran had stated that he had received the vehicle for rent from one Sabari, who is residing in Chandra Garden, Chinnathirupathi and further, finding that the vehicle registration number is different and that the original owner is not known, had dismissed the petition. It is the case of the petitioner that the actual number of the vehicle is TN20 BV 0333, whereas, the accused have used the car by changing the number plate as TN54 L 6666. It is the case of the petitioner, that the vehicle number and the Engine Number tallies with the vehicle and Engine Number in the R.C.Book. Further it has been contended by the respondent that the Engine Number and the vehicle number found in the vehicle tallies with the numbers in the R.C.Book.

8. This Court is of the opinion that the petitioner being the owner of the vehicle and not an accused, is entitled to the interim custody of the vehicle, subject to imposition of conditions.

9. Accordingly, the Criminal Revision Petition is allowed and the impugned order, dismissing the petition for return of property in C.M.P.No.6009/2018, dated 10.01.2019, passed by the learned Judicial Magistrate No.V, Salem, is hereby set aside and that the interim custody of the vehicle in question, bearing Engine No.2KD6441554 and Chasis No.MBJ11JV400720222, (with actual registration number TN28 BV 0333), shall be handed over to the petitioner, subject to the following conditions:

i. The petitioner shall execute a bond for a sum of Rs.2,00,000/- with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Salem.

iv. The petitioner shall produce the Original 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 or the Investigating Agency.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To:

1. The Judicial Magistrate No.V, Salem.

2. The Inspector of Police, Ammapet Police station, Salem District.

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Nalliyappan , Advocate SR.No. 91868

Cr1.R.C.No.1131 of 2019

A.SK(18/12/2019)