



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.828 of 2019

M.Nagalingam

.. Petitioner/Petitioner

Vs.

State rep. by,
The Sub Inspector of Police,
Samayanallur police station,
Madurai District.
(Crime No.255 of 2018)

.. Respondent/Respondent

Prayer : This Criminal Revision petition is filed under Sections 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order dated 14.08.2019 in Crl.M.P.No.3567 of 2019 on the file of the Judicial Magistrate, Vadipatti, Madurai District and set aside the same.

For Petitioner : Mr.T.Palanisamy

For Respondent : Mr.A.Robinson,
Government Advocate(Crl.Side).

ORDER

The petitioner is figuring as accused No.2 in Crime No.255 of 2018 registered on the file of the Samayanallur police station for the offences under Sections 294(b), 353 and 379 of I.P.C.

2. It is a case of sand theft. The petitioner's vehicle bearing registration No.TN50-D-5846 was seized. It is a tractor. It was handed over to the jurisdictional Magistrate also. The petitioner earlier filed W.P.(MD)No.15195 of 2019 seeking its release. The petitioner's writ petition was disposed of on 05.07.2019 in the following terms:

"9. ... The respondents are directed to release the said vehicle subject to the following conditions:-

a) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the



District Educational Officer, Madurai District;

b) the petitioner shall execute an affidavit of undertaking that, he shall not involve in any offence in future that may lead to the seizure of the vehicle in question. The petitioner shall not alienate/encumber the vehicle in question till the proceedings are completed.

c) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle;

d) This order for release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law;

e) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall co-operate with the enquiry to be conducted by the respondents;

f) The amount, so directed to be deposited shall be deposited before the District Educational Officer, Madurai District by appropriate transactions/acknowledgement and such amount to be received by the District Educational Officer from the petitioner, shall be utilized for development of infrastructures in Government Schools, wherever, it is necessary."

3. The petitioner had complied with the first condition by depositing a sum of Rs.25,000/-. However, his request for release of the vehicle was rejected by the learned trial Magistrate by pointing out that the ownership documents do not disclose the name of the petitioner herein. Admittedly, in the R.C. Book, the name, S.Shanmuga Vel is mentioned. The name of the petitioner is not found in the R.C. Book. This order dated 14.08.2019 passed by the learned Judicial Magistrate, Vadipatti, in Cr.M.P.No.3567 of 2019 has been put to challenge in this revision case.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

5. As rightly pointed out by the learned counsel for the petitioner, a movable property can be transferred and sold by mere delivery. He would claim that Shanmuga Vel was the earlier vehicle owner and that he had sold the same to the petitioner herein.



6. The original R.C. Book is with the financier, by name, Jeyaveraa Finance. The financier had given a letter dated 19.07.2019 mentioning that the original R.C. Book is with them and that it was pledged only by the petitioner Nagalingam. If there was any doubt regarding the same, the respondent could have very well verified the said fact with Jeyaveraa Finance.

7. Even according to the prosecution, the vehicle was seized only from the petitioner herein. There is also no rival claim from Shanmuga Vel. If Shanmuga Vel continues to be the owner of the seized vehicle, he would have certainly moved the Court or lodged a complaint. No such thing has happened. Therefore, from the facts and circumstances and the materials available on record, I come to the conclusion that the petitioner is the owner of the vehicle in question.

8. This Court had already passed an order in his vehicle dated 05.07.2019 in W.P.(MD)No.15195 of 2019. In this view of the matter, the order impugned in this Revision stands set aside. The Criminal Revision case is allowed and the respondent is directed to hand over the vehicle in question to the petitioner herein. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate,
Vadipatti, Madurai District.
2. The Sub Inspector of Police,
Samayanallur police station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer, Criminal Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.PALANISAMY, Advocate (SR-96316[F] dated 06/11/2019)

Crl.R.C.(MD)No.828 of 2019
05.11.2019

JMN(06.11.2019) 3P : 7C

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