

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Cr1.R.C.No.265 of 2020

Sundaram Finance Limited
Represented by Senior Manager (Legal)
N.Madhusudhanan
Having registered office at
21, Patullos Road,
Chennai - 600 002.

.. Petitioner

Vs.

1.State represented by
The Inspector of Police,
DCB,
Dharmapuri DCB.

2.A.R.Chandran

.. Respondents

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to set aside the order dated 07.01.2020 passed in C.M.P.No.5752 of 2019 in Crime No.1 of 2018 on the file of the Judicial Magistrate Court No.II, Dharmapuri and to return the vehicle bearing Registration No.TN 37 CS 3033 seized by the first respondent.

For Petitioner : Mr.G.R.Hari
for M/s.Ram and Ram

For R1 : Mrs.P.Kritika Kamal
Govt. Advocate (Cr1.Side)

For R2 : No Appearance

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O R D E R

This case is taken up through video conferencing.

2. This criminal revision is filed seeking to set aside the order dated 07.01.2020 passed in C.M.P.No.5752 of 2019 in Crime No.1 of 2018 on the file of the Judicial Magistrate Court No.II, Dharmapuri and to return the vehicle bearing Registration

No.TN 37 CS 3033 seized by the first respondent.

3. On the complaint lodged by K.S.Jaganadhan, the first respondent/police registered a case in DCB Crime No.1 of 2018 on 02.04.2018 for the offences under Sections 120-B, 420, 465, 468 and 471 IPC against Nagaraj and others.

4. The crux of the allegations in the complaint is that the accused posed themselves as arbitrators, initiated arbitration proceedings against the complainant and passed an award against the complainant's property. The police arrested several accused and in the course of the investigation, the police arrested A.R.Chandran (A8) and based on the information provided by him, recovered a Mahindra Bolero car bearing Registration No.TN 37 CS 3033 with the sticker affixed on the front windshield reading 'Government of India'.

5. It is the case of the prosecution that the accused were freely using the said vehicle for their nefarious activities and the sticker 'Government of India' affixed by them on the car camouflaged their clandestine activities. The car was seized and was produced before the Judicial Magistrate Court No.II, Dharmapuri.

6. The petitioner, who had financed the purchase of the car, filed a petition in CrI.M.P.No.5752 of 2019 before the Judicial Magistrate Court No.II, Dharmapuri, under Section 451 Cr.P.C., and the same was dismissed on 07.01.2020, aggrieved by which, the petitioner is before this Court.

7. Heard Mr.G.R.Hari, learned representing counsel for M/s.Ram and Ram associates and Mrs.P.Kritika Kamal, learned Government Advocate (CrI.Side) for the respondent/State.

8. The fact that the petitioner had financed for the purchase of the car is not in dispute. The trial Court has dismissed the petition on the ground that investigation is still pending.

9. On instructions, the learned Government Advocate (CrI.Side) submitted that the police have not received the report from the Tamil Nadu Forensic Science Laboratory and that they have to collect some more material for completing the investigation.

10. In the opinion of this Court, admittedly, the vehicle is lying in the police station since the time of its seizure. Due to COVID-19 pandemic, investigation will further get delayed. By the time the case comes up for trial, what will

remain is a junk of unidentifiable steel. In *Sunderbhai Ambalal Desai Vs. State of Gujarat*¹, the Supreme Court has stated that custody of such vehicles can be handed over after taking photographs.

11. In view of the above, this criminal revision petition is allowed by setting aside the order dated 07.01.2020 passed in C.M.P.No.5752 of 2019 in Crime No.1 of 2018 on the file of the Judicial Magistrate Court No.II, Dharmapuri and the trial Court is directed to return the vehicle to the petitioner on the following conditions:

- i. the petitioner, which is the limited company, shall, through its authorised officer, execute a bond for a sum of Rs.50,000/- with two sureties to the effect that he will come to the Court and give evidence during trial that pursuant to the order of this Court, he has taken custody of the vehicle and had disposed it of;
- ii. the police shall also record the statements of the authorised officer and include him as a witness in the memo of evidence filed along with final report;
- iii. the police shall take photographs of the vehicle in the presence of the Judicial Magistrate No.II, Dharmapuri, who shall certify the same;
- iv. the photographs can be used as evidence in lieu of marking the said Bolero car as material object;
- v. after taking photographs, the police shall remove the windshield of the car, on which, the sticker 'Government of India' has been affixed and prepare an inventory for it and submit the inventory and the windshield to the Judicial Magistrate No.II, Dharmapuri, who shall keep the same in the property room to be marked during trial as material object in lieu of the whole car; and
- vi. it is open to the petitioner to dispose of the property for the dues thereon.

Sd/-

Assistant Registrar

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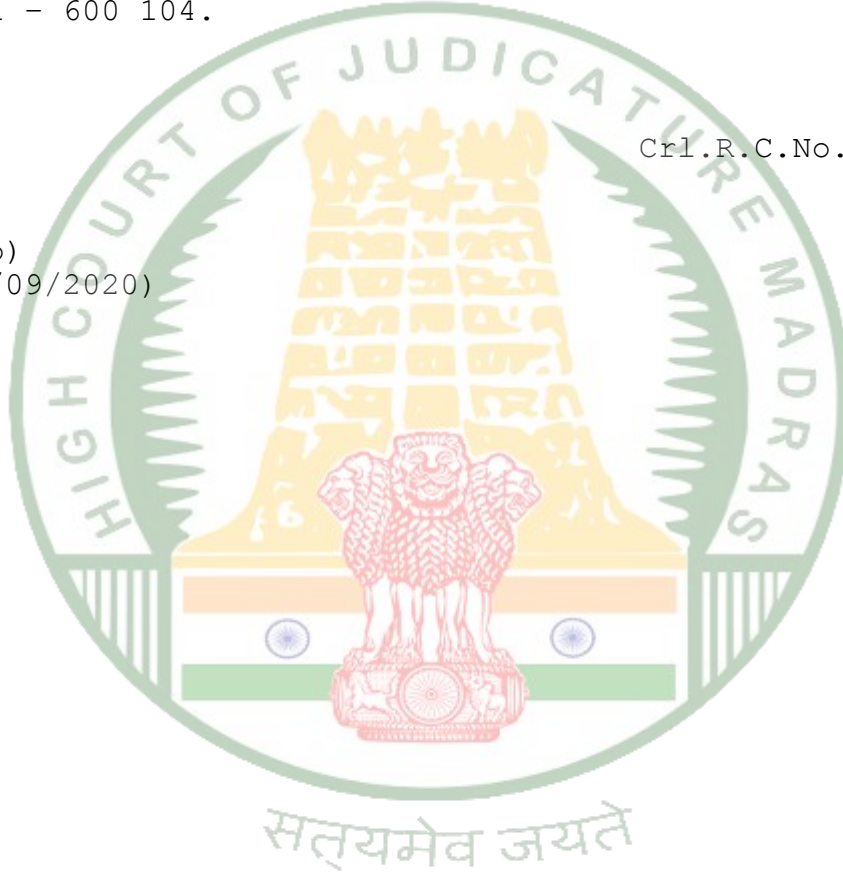
Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Dharmapuri.
2. The Inspector of Police,
DCB,
Dharmapuri DCB.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

CrI.R.C.No.265 of 2020

vsn-ii (co)
rr ii (03/09/2020)



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