

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.09.2020

CORAM

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

Crl.R.C.No.735 of 2020

Siddharth Dube ...Petitioner/owner of the vehicle

Vs.

1.State represented by
The Inspector of Police,
Upper Coonoor Police Station,
Coonoor Taluk.
(Crime No.192 of 2019) Respondent/Complainant

2.Tini Korah Respondent/Accused

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.
seeking to set aside the order dated 14.08.2020 passed in
C.M.P.No.127 of 2020 on the file of the Judicial Magistrate
Court, Coonoor.

For Petitioner : Mr.Vaidhayanadhan

For R1 : Mrs.P.Kritika Kamal
Government Advocate
(Crl. Side)

O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to
set aside the order dated 14.08.2020 passed in C.M.P.No.127 of
2020 on the file of the Judicial Magistrate Court, Coonoor.

3. On the complaint lodged by Siddharth Dube,
petitioner herein, the police registered a case in Crime
No.192 of 2019 on 16.12.2019 for the offence under Section 308
IPC, against Tini Korah, second respondent herein and arrested
him.

4. It is the case of Siddharth Dube that he entrusted
the construction work of his house to Tini Korah, who
abandoned the work in the middle and attempted to defraud him.
On account of this, there was previous enmity between them. On
15.12.2019, around 21.30 hours, when Siddharth Dube was
proceeding in his Toyota Land Cruiser car from Sim's park to

Bandisholai, Tini Korah came in Mahindra Jeep and deliberately dashed on the vehicle of Siddharth Dube and caused extensive damage to it and attempted to kill him.

5. On these allegations, the FIR was registered against Tini Korah as stated above. The police seized both the vehicles viz., Siddharth Dube's Toyota Land Cruiser car and Tini Korah's Mahindra Jeep and they were examined by the Motor Vehicles Inspector to assess the nature of collision. At the time of seizure of Siddharth Dube's Toyota Land Cruiser car, the police had written the registration number, chassis number and engine number in the Mahazar.

6. In this case, we are concerned only with the discrepancy in the engine number.

7. In the R.C. Book of the vehicle, the engine number is shown as E.No.1HT0084R83. However, the actual engine number inscribed on the engine is 0084883. Therefore, the police, in the mahazar as well in Form-95, have referred to the engine number as 0084883.

8. Both the vehicles viz., Siddharth Dube's Toyota Land Cruiser car and Tini Korah's Mahindra Jeep, were produced before the Judicial Magistrate Court, Coonoor and on the petition filed by Tini Korah, his Mahindra Jeep was returned to him. When Siddharth Dube filed Crl.M.P.No.127 of 2020 in Crime No.192 of 2019 under Section 451 Cr.P.C. for the custody of his Toyota Land Cruiser car, Tini Korah intervened and objected to the return of vehicle by saying that Toyota Land Cruiser car has been banned by the Ministry of Road Transport and Highways and therefore, it should not be handed over to Siddharth Dube. That apart, the R.C. Book shows that Toyota Land Cruiser car is in the name of M/s.Multival India Pvt.Ltd., and that company has given power of attorney to Siddharth Dube, for interim custody of the vehicle.

9. The Judicial Magistrate, Coonoor, has dismissed C.M.P.No.127 of 2020 on 14.08.2020, on the short ground that, the R.C. Book produced by Siddharth Dube shows the engine number as 0084R83, whereas, Form-95 and entry in the Property Register shows the engine number as 0084883.

10. Aggrieved by the same, Siddharth Dube has filed the present revision petition.

11. Heard Mr.Vaidhayanadhan, learned counsel for Siddharth Dube and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) appearing for the respondent/State. Notice was ordered on Tini Korah and private notice has been served on him as well on the learned counsel, who appeared for him before the Judicial Magistrate Court, Coonoor.

12. In the opinion of this Court, Tini Korah has no locus standi in this case, because, it is not his case that the Toyota Land Cruiser car belongs to him.

13. The learned counsel for Siddharth Dube submitted that at the time of registration of Toyota Land Cruiser car, the Regional Transport Office officials had erroneously entered the engine number as 0084R83 instead of 0084883, but, the registration number and the chassis number found in the R.C. Book tallies with the Mahazar, Form-95 and entry in the Property Register.

14. The fact remains that the two vehicles viz., Toyota Land Cruiser car and Mahindra Jeep, were involved in an incident, in which, Siddharth Dube was on the wheels of Toyota Land Cruiser car. Only on the complaint of Siddharth Dube, FIR on Tini Korah was registered, both the vehicles were seized by the police and kept in the police station. It is not the case of the police that there was a surreptitious substitution of vehicle after the incident.

15. The learned counsel for Siddharth Dube further submitted that steps are being taken with the Regional Transport Office to effect the correction in the R.C. Book with regard to the engine number.

16. On the facts and circumstances obtaining in the case at hand, this Court has no reason to believe that the Toyota Land Cruiser car, seized by the police and produced in the Court, was not involved in the incident.

17. In the light of the above finding, the discrepancy in the engine number pales into insignificance. It must be borne in mind that Siddharth Dube is a victim of the crime and hence, he should not be subjected to harassment in the name of procedure. Therefore, this Court is inclined to grant absolute custody of the vehicle to Siddharth Dube, because, it will be a travesty of justice to call upon Siddharth Dube to preserve the vehicle for production during trial, which will take years to commence.

18. Accordingly, the absolute custody of Toyota Land Cruiser car is granted to Siddharth Dube with the following directions:

- (i) Siddharth Dube shall execute a bond for a sum of Rs.10,000/- with two sureties undertaking that he will come to the Court and give evidence in this case and also speak of the fact that he had obtained the permanent custody of the vehicle pursuant to the orders of this Court;

(ii) Siddharth Dube and the sureties shall affix their
) photographs and give the copies of their Aadhaar Card to the Judicial Magistrate, Coonoor;

(ii) The police shall take photographs of the vehicle
i) in the presence of Judicial Magistrate, Coonoor, forthwith and the same shall be attested by the Investigating Officer and the Magistrate;

(iv) The Judicial Magistrate, Coonoor, shall draw
) proceedings for handing over of the vehicle to Siddharth Dube and the same shall be attested by the Investigating Officer and Siddharth Dube;

(v) The memo so drawn, the photographs so taken along with a copy of this order shall be marked as evidence during trial in lieu of the vehicle;

In the result, this criminal revision petition is allowed by setting aside the order dated 14.08.2020 passed in C.M.P.No.127 of 2020 on the file of the Judicial Magistrate, Coonoor.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

nsd

To

1.The Judicial Magistrate,
Coonoor.

2.The Inspector of Police,
Upper Coonoor Police Station,
Coonoor Taluk.

3.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+lcc to Mr.Vaidhayanathan, Advocate, sr no.30590

CrI.R.C.No.735 of 2020

AJS (CO)

RMP (08/10/2020)