

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1079 of 2020

B.Usharani

... Petitioner

Vs.

State rep. by,
Inspector of Police,
R-6 Kumaran Nagar Police Station,
Adayar, Chennai.
Crime No.1230/2020

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining the order passed in Crl.M.P.No.3082 of 2020 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai dated 22.10.2020 and set aside and consequently to release the vehicle bearing No.TN 13 H 5656 the same.

For Petitioner : Mr.M.Selvam

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioner is the owner of the vehicle viz., Honda City Car bearing registration number TN 13 H 5656, which was seized in Crime No.1230 of 2020, for offence under Section 420 and 406 IPC. To release the said vehicle, the petitioner has filed a petition for return of property under Section 451 Cr.P.C. The learned XXIII Metropolitan Magistrate, Saidapet, Chennai, by order, dated 22.10.2020 in M.P.No.3082 of 2020, dismissed the petition, against which the present revision.

2.The gist of the case is that on 15.08.2020, one Anandhakumar/defacto complainant in Crime No.1230 of 2020 lodged a complaint against the accused viz., Suriya Prabhu, Manibharathi and Karuppu, stating that the defacto complainant was having two cars viz., Hyundai 110 (TN 04 AE 1807) and Maruthi Swift (TN 04 R 3350). The cars were entrusted to the

accused on the promise that the accused would pay Rs.28,500/- as rent, for which an agreement was entered. The payment was made upto August 2019 and thereafter, the rents were not paid. Whenever the defacto complainant approached for rent of the cars. A1 represented that the cars were with A2 and A3. When A2 and A3 were enquired, the defacto complainant was threatened not to ask rent or return of cars. The defacto complainant also came to know that the accused not only cheated him, but also cheated 11 others and usurped their cars, he lodged a complaint to the respondent Police.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle viz., Honda City Car bearing registration number TN 13 H 5656, which is one of the cars entrusted to the accused, who deceived and cheated the defacto complainant/husband of the petitioner. He further submitted that the petitioner's car was seized by the respondent Police, the petitioner being the owner filed a petition with supporting documents seeking return of car. Further, the car is now kept in open yard in the Police Station, exposing to vagaries of weather and its value is diminishing day by day. The Court below without considering the above aspects, had given a finding the case is civil in nature. The only remedy available to the petitioner is to seek return of the property through the civil Court. The other observation made by the Court below in its order that the petitioner, accused and the Police are in collusion is unwarranted.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the accused viz., Suriya Prabhu, Manibharathi and Karuppu are running travel agency. They have made representation to the car owners that the car would fetch rent. On believing the same, the owner of the cars entrusted their cars to them. Totally 11 persons entrusted 13 cars to them. Initially, to show their bonofide, the accused were making rental income for few months and later, failed to make rental income and also sold the cars to other persons by making false representation with forged documents.

5.It is further submitted that the investigation in this case commenced and witnesses are examined. In this case, no accused could be apprehended, since the Police could not give proper instruction. Hence, on such observation made by the Court below, now the investigation is being monitored by the Deputy Commissioner of Police, Adyar. From the Status Report, it is seen that the Deputy Commissioner of Police, Adyat called the respondent Police through a memo dated 10.12.2020 to

handover the case diary in Crime No.1230 of 2020. During investigation, it is found that the car owners viz., Saran, Kavitha, Yuvaraj, Sarath, Karthick, Senthil, Siva, Suresh, Vinothkumar, Gokul Raj and Anandh were examined and they have also made complaint against the accused. The accused Suriya Prabhu, Manibharathi and Karuppu filed anticipatory bail before this Court in CrI.O.P.No.13097 of 2020 and the same was dismissed on 24.08.2020. In the meanwhile, steps were taken to locate the 13 cars entrusted to the accused. On information the vehicle of the petitioner was seized from one Tamilvanan of Ashok Nagar on 27.08.2020. Likewise on 17.09.2020, Volkes Wagon Vento car bearing Registration Number TN 07 BL 9526 was seized from Vijay Anand of Madipakkam. On 22.09.2020, Hyundai Car bearing Registration Number TN 05 AW 1462 was seized from Suresh of Saligramam. On 23.09.2020 Maruthi Suzuki Swift bearing Registration Number TN 04 R 3350 was seized from Ajay of Ramapuram, Chennai. Another Chevrolet Car bearing Registration Number TN 18 AA 0470 near the house of Ravi at Pammal. All the cars were seized by way of mahazars in presence of independent witnesses. After seizure of the cars, the owner of the cars were also examined and the seized cars were sent to the learned XXIII Metropolitan Magistrate, Saidapet, Chennai through Form-95. The receivers of the car were also examined and their statement were recorded. A1 was arrested on 10.12.2020 in Ashok Nagar, who gave confession, based on which, yet another Eco Sports Car bearing Registration Number TN 22 CS 3994 was seized. A1 was produced before the Court below and remanded to Judicial Custody on 10.12.2020. As regard the accused viz., Manibharathi and Karuppu, earnest steps were being made to secure them. In this case out of 13 cars, 6 cars could be seized and investigation is in progress.

6.Considering the submissions made on either side and the vehicle has been kept in open yard and the petitioner being a owner of the vehicle, this Court is inclined to return the vehicle to the petitioner. The learned XXIII Metropolitan Magistrate, Saidapet, Chennai, is directed to grant custody of the said vehicle viz., Honda City Car bearing registration number TN 13 H 5656 to the petitioner:-

(i) The petitioner shall produce the original RC Book and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the revision petitioner with a view to use the vehicle;

(ii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iii) The petitioner shall execute a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand) to the satisfaction of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

(iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

7. In view of the above, the order dated 22.10.2020, made in M.P.No.3082 of 2020, by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai is, hereby, set aside and the revision is, accordingly, allowed. The Deputy Commissioner of Police, Adyar District, Chennai, is to monitor the investigation in Crime No.1230 of 2020 till filing of the charge sheet.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The XXIII Metropolitan Magistrate Court,
Saidapet,
Chennai.

2. The Inspector of Police,
R-6 Kumaran Nagar Police Station,
Adayar, Chennai.

3. The Deputy Commissioner of Police
Adayar District
Chennai

4.The Public Prosecutor,
High Court, Madras.

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