

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1241 of 2020

Velmurugan,
S/o.Kandhasamy

... Petitioner

Vs.

State by,
The Inspector of Police,
Alangayam Police Station,
Vellore District.
(Cr.No.311/2020).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to allow the Criminal Revision Petition and set aside the order passed in Crl.M.P.No.2320 of 2020 on the file of the learned Judicial Magistrate No.III, Tirupathur, Vellore District dated 15.09.2020.

For Petitioner : Mr.M.Vijayaragavan

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

ORDER

The petitioner is the owner of the vehicles Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AQ 0229, Engine Number FYHZ412633 and Chassis Number MBINADYC6FRYM0032 and Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AV 9776, Engine Number FCPZ109858 and Chassis Number MBIKADYC2FPCM4501 and filed a petition in C.M.P.No.2320 of 2020 Crime No.311 of 2020 for return of vehicles, which were seized in connection with Crime No.311 of 2020. The learned Judicial Magistrate No.III, Tirupathur, by order, dated 15.09.2020 dismissed the petition, against which the petitioner before this Court.

2.The case of the prosecution is that on 23.05.2020 when the Sub Inspector of Police attached to the respondent Police Station along with his team conducted road check in Pulavarpalli Bus Stand, two lorries bearing Registration Numbers TN 47 AF 5654 and TN 52 F 6121 were signalled to stop. When the respondent Police questioned the drivers of the vehicle, they disclosed their identities as Prenesh, S/o.Nagaraj, Karaikudi

Village, Panjappatti Krishnarayapuram Taluk, Karur District and Vairaperumal, S/o.Murugan, Thirumanapatti Village, Theppakulathupatti Post, Dindugal District. On enquiry, the driver of the vehicles stated that one Kandasamy, S/o.Velmurugan is the owner of the two lorries and he has ten lorries and he instructed them to drive the lorry by changing the number plate as appropriate. The respondent Police registered an FIR in Crime No.311 of 2020, for offence under Sections 468 r/w 471 and 420 IPC for driving the vehicles using bogus number plates.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the two vehicles viz., Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AQ 0229, Engine Number FYHZ412633 and Chasis Number MBINADYC6FRYM0032 and Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AV 9776, Engine Number FCPZ109858 and Chasis Number MBIKADYC2FPCM4501. The drivers of the vehicle without his knowledge, changed the number plates and used the vehicles for their own use. The petitioner filed a petition in C.M.P.No.2320 of 2020 before the learned Judicial Magistrate No.III, Tirupathur on the ground that the petitioner was in need of his vehicle. In support of ownership of vehicles, the petitioner produced relevant documents along with affidavit. Since the prosecution has made objections that the vehicles may be stolen properties and four number plates from each lorries were seized and the Registration Number and Engine Number in Form-95 is different from that of the Registration Number and Engine Number in the RC Book and the investigation is yet to be completed and no Court has power to return the property as interim custody and the confiscation proceedings was initiated, the learned learned Judicial Magistrate No.III, Tirupathur, dismissed the petition.

4.The petitioner admitted that he is owner of the vehicles in this case. The number plates are changed to evade the payment of tax. Hence, he prayed that the petitioner to be entrusted with the interim custody of the vehicles. Further, the vehicles of the petitioner are exposed in open space to vagaries of weather and thereby, the value of the vehicle is getting diminished. Further, he placed reliance on the citation of the Hon'ble Apex Court in the case of "Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290", wherein guidelines were issued in the cases of return of property to the owner.

5.The learned Additional Public Prosecutor appearing for the respondent submitted that the property may be stolen property and there were four number plates from each lorries seized by the respondent Police from the accused at the scene of occurrence, which denotes the changing of number plates may be for illegal purpose. The learned Additional Public Prosecutor

apprehends that if the vehicle is returned to the petitioner, he would continue to indulge in such activities. The Registration Number and Engine Number in Form-95 is different from the Registration Number and Engine Number in the RC Book.

6.This Court considered the rival submissions and perused the materials available on record.

7.It is not in dispute that the petitioner is the owner of the vehicles viz., Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AQ 0229, Engine Number FYHZ412633 and Chassis Number MBINADYC6FRYM0032 and Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AV 9776, Engine Number FCPZ109858 and Chassis Number MBIKADYC2FPCM4501. It is seen that from 23.05.2020, the vehicles are kept in open space and thereby, the value of the vehicles are getting diminished. The Hon'ble Apex Court in the case of "Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290", had given guidelines in the cases of return of property to the owner.

8.In view of the aforesaid reasons, this court is constrained to set aside the order passed by the learned Judicial Magistrate No.III, Tirupathur, made in C.M.P.No.2320 of 2020, dated 15.09.2020 and the criminal revision is allowed.

9.The learned Judicial Magistrate No.III, Tirupathur is directed to return the vehicles, viz., Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AQ 0229 and Ashok Leyland Taurus Lorry bearing Registration Number TN 57 AV 9776 to the petitioner, on the following conditions:-

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

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

(iii)The petitioner is directed to deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) for two vehicles, as non-refundable deposit through RGS/NEFT in favour of the "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c. No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856, on such payment and production of proof, the vehicles shall be returned;

(iv)The petitioner shall also give an undertaking that he will not use the vehicles for any illegal activities in future and also to produce the vehicles 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.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2

To

1. The Judicial Magistrate No.III,
Tirupathur.

2. The Inspector of Police,
Alangayam Police Station,
Vellore District.

3. The Public Prosecutor,
High Court, Madras.

SR-ii (CO)
rv (07/01/2021)

Cr1.R.C.No.1241 of 2020



WEB COPY