

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.10.2020

Coram

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.30005 of 2019

C.Thulsi (M/43)

...Petitioner/Accused - 1

-vs

State rep. by
The Inspector of Police,
D-4, Padalam Police Station,
Kancheepuram District.
Crime No.207 of 2019

2.Raghuram Sharma *

* 2nd respondent impleaded as per order dated 11.12.2019
in Crl. MP No.18414 of 2019 ...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to call for the entire records comprised in Crl. M.P. No.8735 of 2019 in Crime No.207 of 2019 and set aside the order dated 16.10.2019 made by the learned Judicial Magistrate No.1, Chengalpet District and direct to release the 47 Nos. of Buffalos seized by the respondent herein.

For Petitioner : Mr.M.Vimal B.Crimson

For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor for R1

सत्यमेव जयते
Mr.R.Ganesh Kumar for R2

ORDER

(This case has been heard through video conference)

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This Criminal original petition has been filed for the relief to set aside the order dated 16.10.2019 passed in Crl. MP.No.8735 of 2019 in Crime No.207 of 2019 on the file of the learned Judicial Magistrate No.I, Chengalpet and for a direction to release 47 Nos. of buffaloes, seized by the respondent herein in the above referred Crime number.

2. Heard Mr.M.Vimal B.Crimson, learned counsel for the petitioner, Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent and Mr.R.Ganesh Kumar, learned counsel for the second respondent.

3. The grievance of the petitioner herein is that the first respondent police has seized 47 Nos. of buffaloes in Crime No.207 of 2019 and thereafter, the same has not been produced before the learned Judicial Magistrate No.I, Chenglpet as a case property. In respect of the same, the petitioner herein has filed an application under Section 451 read with 457 of Criminal Procedure Code before the Court below, praying to direct the respondent police to produce buffaloes and for return of the same to the petitioner.

4. By order dated 16.10.2019, the Court below has returned the said application filed by the petitioner, stating the reason that the property i.e. cattles were not produced before it. Therefore, the petitioner is before this Court seeking for a direction to the learned Judicial Magistrate No.I, Chenglepet to pass an appropriate order, particularly for returning the buffaloes to the petitioner.

5. Per contra, the learned Additional Public Prosecutor appearing for the first respondent, on instructions would submit that after recovery of the petition mentioned buffaloes, due to the difficulty in producing the same before the Court below, the same has been produced in a Gosala namely Thiruvadi Seva Welfare Trust and now all the buffaloes are under safe custody. In otherwise, he had stated that the first respondent police is ready to take effective steps for producing the same before the court below for assigning the RPR number.

6. Considering the submissions of the learned counsel on either side with relevant records, it is not in dispute that the buffaloes mentioned in the petition were recovered as the case property and therefore, the same has to be disposed of only in accordance with law.

7. In general, if any property is recovered as a material property in a particular crime number, the same should be produced before the Jurisdictional Magistrate in which, the connected FIR is pending for further proceedings. But in this case, the said procedure has not been followed by the respondent police. Further, it is also difficult for the first respondent police to produce 37 buffaloes before the Court below for the purpose of assigning RPR number. Therefore, considering the circumstances of the case, it would be appropriate to give a direction to the learned Judicial Magistrate No.I, Chenglpet to depute their staff in the category of Head Ministerial Officer

to visit the Gosala stated supra and direct him to take inventory and on completion of inventory, he has to assign property number. Further, on completion of the aforesaid proceedings before the Court below, the petitioner is at liberty to file an appropriate application for the relief as prayed for.

8. Accordingly, the learned Judicial Magistrate No.I, Chenglepet is directed to depute their staff in the category of Head Ministerial Officer to visit Gosala namely Thiruvadi Seva Welfare Trust and to take inventory, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner is granted liberty to file an application for the relief as prayed for and on such filing, the learned Judicial Magistrate No.I, Chenglepet is directed to pass orders on merits and in accordance with law, after giving sufficient opportunity to the second respondent as expeditiously as possible.

9. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Chengalpet Dist.

2. The Inspector of Police,
D-4, Padalam Police Station,
Kancheepuram District.

3. The Public Prosecutor,
High Court, Chennai.

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LN(CO)
RV(05/11/2020)