



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2020

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLICrl.R.C(MD)No.93 of 2020

K.Amaresan

: Petitioner/Petitioner/Owner of the Property

Vs.

The State represented by
The Inspector of Police,
Keelavalavu Police Station,
Madurai.

(Crime No.171 of 2012) : Respondent/Respondent/ Complainant

Prayer: Criminal Revision has been filed under section 397(1) r/w 401 of the Criminal Procedure Code, against the order passed by the Judicial Magistrate, Melur, in Crl.MP No.3841 of 2019, dated 10.01.2020.

For Petitioner : Mr.T.Padmanabhan

For Respondent : Mr.APG.Ohm Chairma Prabhu
Government Advocate
(Criminal side)

O R D E R

This Criminal Revision is directed against the order passed by the Judicial Magistrate, Melur, in Crl.MP No.3841 of 2019, dated 10.01.2020.

2.The petitioner is a stage carriage operator operating his vehicle TN-59-AD-3083 plying on the route Madurai to Dindigul via Alanganallur. The vehicle was seized by the respondent police in connection with a case in Crime No.171 of 2012 on the ground that the vehicle has been purchased from the outcome of the money illegally by PRP Granites. The petitioner's Power Agent filed a petition in Crl.MP No.5941 of 2012 under section 457 of the Criminal Procedure Code before the Judicial Magistrate, Melur, seeking interim custody. The learned Magistrate, by its order, dated 29.10.2012 held that the vehicle is a transport bus and if kept idle, much loss would be caused to the owner and even if confiscation proceeding is contemplated, the vehicle shall be given as interim custody on imposing conditions and granted interim custody of the vehicle TN-58-AD-3083 to the Power Holder on certain conditions. Subsequently, the petitioner filed an application Crl.MP No.3841 of 2019 for temporary return of the Original Registration Certificate of the vehicle TN-59-AD-3083 for the purpose of renewal and replace of the vehicle to a later model. The said petition was dismissed on 10.01.2020. Aggrieved by the said order, the petitioner is before this court.



3.The learned counsel appearing for the petitioner argued that since the vehicle model is of the year 2006, the petitioner wanted to replace the existing vehicle with a latest model and hence, he made an application on 15.11.2019 for replacement of the existing vehicle TN-59-AD-3083 by another vehicle TN-49-BY-3583 along with renewal application, but to his shock and surprise, the Regional Transport Authority, Dindigul, by his letter, in Na.Ka.No.51637-A3-2019, dated 18.11.2019 has returned his application along with the documents stating that the Original Registration Certificate of the vehicle is in custody of the learned trial court in respect of Crime No.171 of 2012 and therefore, the application for replacement will be taken into consideration only after necessary orders are obtained from the learned trial court regarding the renewal and replacement applications in respect of vehicle and consequence there of because of public interest, the petitioner moved this court by way of filing W.P(MD)Nos.25309 and 25312 of 2019 and this court allowed both the writ petitions and directed the petitioner to file petition before the trial court to return back the Original Registration Certificate and directed the Regional Transport Authority, Dindigul, to consider his applications and despite a clear order of this court, the learned trial court without conjoint reading of the order passed in W.P(MD)Nos.25309 and 25312 of 2019 came to the conclusion and allowed the petition part and dismissed the prayer for replacement of vehicle to later model.

4.The main contention raised on the side of the petitioner is that the old vehicle bearing registration No.TN-59-AD-3083 is in a dilapidated condition and the renewal and replacement are not different, however, in practical both renewal of permit and the replacement of the vehicle are one and the same and the order passed in W.P(MD)Nos.25309 and 25312 of 2019 are misunderstood by the trial court and the petitioner was very much ready to surrender the latest model vehicle RC, if replacement is to be concluded and despite a clear order of this court, the trial court without conjoint reading of the Order made in W.P(MD)Nos.25309 and 25312 of 2019 came to the conclusion and allowed the petition in part and dismissed the prayer for replacement of vehicle to later model and prays that the criminal revision has to be allowed.

5.The petitioner made an application on 15.11.2019 before the Regional Transport Authority, Dindigul stating that his vehicle model is 2006 and he wanted to replace the existing vehicle with a latest model vehicle, but the Regional Transport Authority, Dindigul returned the application of the petitioner stating that the Original RC of the vehicle is in the custody of the trial court in respect of Crime No.171 of 2012 and therefore, the application for return and replacement will be taken into consideration only after necessary orders from the trial court regarding renewal and replacement applications in respect of the disputed vehicle. Then, the petitioner filed W.P(MD)Nos.25309 and 25312 of 2019 before this court for mandamus directing the Regional Transport Officer, Dindigul to take back the application of the petitioner for renewal



and replacement. In that case, it was stated in para 3 to 7 as under:-

"3.The learned Judicial Magistrate, Melur, has imposed conditions that the vehicle should not be altered or encumbered and the RC Book shall be surrendered before the Court below. The respondent cannot renew the permit, without production of RC Book. Therefore, the petitioner should get orders from the concerned Magistrate to impose conditions and thereafter, proceed with his request for renewal of permit. Till such direction is given, the respondent is directed to keep the application pending.

4.Once the petitioner produce the order of the learned Judicial Magistrate, Melur, further action can be taken.

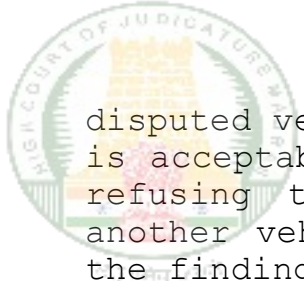
5.Status quo till 15.01.2020.

6.However, if the petitioner does not produce any orders, it is open to the respondent to pass orders in accordance with law.

7.These Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed."

6.On careful perusal of the above order, it reveals that the learned single Judge of this court held that the petitioner should get orders from the concerned Magistrate to impose conditions and thereafter proceed with his request for renewal of permit and till such direction is given, the respondent is directed to keep the applications pending. In the above writ petition, no specific order was passed in respect of the replacement of the disputed vehicle. But the petitioner filed the petition before the Magistrate to return the RC book for renewal and replacement of the disputed vehicle by some other vehicle. The learned Magistrate ordered to return the RC Book, but in respect of replacement of the vehicle, the learned Magistrate refused to grant the relief.

7.On perusal of the order passed by the trial court in CrI.MP No.5941 of 2012, the learned Magistrate imposed one of the conditions that the petitioner shall not alter, mortgage, sell or in any other manner transfer or encumber the property till the disposal of the case. Further, the disputed vehicle is involved in a criminal case and hence, the marking of the above vehicle in the case is essential. Hence, the condition imposed by the learned Magistrate stating that the petitioner shall not alter, mortgage, sell or in any other manner transfer or encumber the property till the disposal of the case is correct. Hence, the argument put forth on the side of the prosecution stating that the replacement of the



disputed vehicle by another vehicle will affect the prosecution case is acceptable. Hence, the impugned order passed by the trial court refusing to grant the relief of replacement of the vehicle by another vehicle is correct and it is not necessary to interfere in the findings of the trial court.

8. In the result, this criminal revision is **dismissed**.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar (CS)

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To

1. The Judicial Magistrate, Melur.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s. T. PADMANABHAN, Advocate (SR-7638[F] dated 21/02/2020)

Crl.R.C (MD) No. 93 of 2020
21.02.2020

KK/14.05.2020/ 4P- 4C