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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH  
and  
THE HONOURABLE MS. JUSTICE R.N.MANJULA

Criminal Revision Case No.1040 of 2020

Sundaram Finance Limited  
represented by its Authorised Signatory  
Mr.N.Madhusudhanan  
having registered office at  
21, Patullos Road,  
Chennai - 600 002.

...Petitioner

Vs.

1. State represented by  
The Inspector of Police DCB,  
Dharmapuri DCB.

2. A.R.Chandran  
S/o.R.Angamuthu

...Respondents

Criminal Revision Case filed u/s.397 r/w 401 of the Code of Criminal Procedure seeking to set aside the order passed by the Judicial Magistrate II, Dharmapuri, in C.M.P.No.1366 of 2020 and return the original RC Book of the vehicle bearing registration number TN 37 CS 3033, seized along with the vehicle by the first respondent in Crime No.1/2018.

For Petitioner : Mr.G.R.Hari

For Respondents : Mr.Hasan Mohamed Jinnah,  
State Public Prosecutor  
assisted by Mr.A.Gokulakrishnan  
Additional Public Prosecutor [R1]  
Notice served - No appearance [R2]

ORDER

[Order of the Court was made by P.N.PRAKASH, J]

This petition has been filed seeking to set aside the order passed by the learned Judicial Magistrate II, Dharmapuri, in



C.M.P.No.1366 of 2020 and return the original RC Book of the vehicle bearing registration number TN 37 CS 3033, seized along with the vehicle by the first respondent in Crime No.1/2018.

2. It is seen that one of us (PNPJ), passed the following order in CrI.R.C.No.265 of 2020 on 29.07.2020:

'This case is taken up through video conferencing.

2. This criminal revision is filed seeking to set aside the order dated 07.01.2020 passed in C.M.P.No.5752 of 2019 in Crime No.1 of 2018 on the file of the Judicial Magistrate Court No.II, Dharmapuri and to return the vehicle bearing Registration No.TN 37 CS 3033 seized by the first respondent.

3. On the complaint lodged by K.S.Jaganadhan, the first respondent/police registered a case in DCB Crime No.1 of 2018 on 02.04.2018 for the offences under Sections 120-B, 420, 465, 468 and 471 IPC against Nagaraj and others.

4. The crux of the allegations in the complaint is that the accused posed themselves as arbitrators, initiated arbitration proceedings against the complainant and passed an award against the complainant's property. The police arrested several accused and in the course of the investigation, the police arrested A.R.Chandran (A8) and based on the information provided by him, recovered a Mahindra Bolero car bearing Registration No.TN 37 CS 3033 with the sticker affixed on the front windshield reading 'Government of India'.

5. It is the case of the prosecution that the accused were freely using the said vehicle for their nefarious activities and the sticker 'Government of India' affixed by them on the car camouflaged their clandestine activities. The car was seized and was produced before the Judicial Magistrate Court No.II, Dharmapuri.

6. The petitioner, who had financed the purchase of the car, filed a petition in CrI.M.P.No.5752 of 2019 before the Judicial Magistrate Court No.II, Dharmapuri, under Section 451 Cr.P.C., and the same was dismissed on 07.01.2020, aggrieved by which, the petitioner is before this Court.



7. Heard Mr.G.R.Hari, learned representing counsel for M/s.Ram and Ram associates and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

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8. The fact that the petitioner had financed for the purchase of the car is not in dispute. The trial Court has dismissed the petition on the ground that investigation is still pending.

9. On instructions, the learned Government Advocate (Crl.Side) submitted that the police have not received the report from the Tamil Nadu Forensic Science Laboratory and that they have to collect some more material for completing the investigation.

10. In the opinion of this Court, admittedly, the vehicle is lying in the police station since the time of its seizure. Due to COVID-19 pandemic, investigation will further get delayed. By the time the case comes up for trial, what will remain is a junk of unidentifiable steel. In *Sunderbhai Ambalal Desai Vs. State of Gujarat*(2002) 10 SCC 290, the Supreme Court has stated that custody of such vehicles can be handed over after taking photographs.

11. In view of the above, this criminal revision petition is allowed by setting aside the order dated 07.01.2020 passed in C.M.P.No.5752 of 2019 in Crime No.1 of 2018 on the file of the Judicial Magistrate Court No.II, Dharmapuri and the trial Court is directed to return the vehicle to the petitioner on the following conditions:

- i. the petitioner, which is the limited company, shall, through its authorised officer, execute a bond for a sum of Rs.50,000/- with two sureties to the effect that he will come to the Court and give evidence during trial that pursuant to the order of this Court, he has taken custody of the vehicle and had disposed it of;
- ii. the police shall also record the statements of the authorised officer and include him as a witness in the memo of evidence filed along with final report;
- iii. the police shall take photographs of the vehicle in the presence of the Judicial Magistrate No.II, Dharmapuri, who shall certify the same;



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- iv. the photographs can be used as evidence in lieu of marking the said Bolero car as material object;
- v. after taking photographs, the police shall remove the windshield of the car, on which, the sticker 'Government of India' has been affixed and prepare an inventory for it and submit the inventory and the windshield to the Judicial Magistrate No.II, Dharmapuri, who shall keep the same in the property room to be marked during trial as material object in lieu of the whole car; and
- vi. it is open to the petitioner to dispose of the property for the dues thereon.'

3. The petitioner filed Crl.M.P.No.1366 of 2020 before the learned Judicial Magistrate II, Dharmapuri, under section 451 of the Code of Criminal Procedure seeking return of the RC Book of the vehicle bearing registration number TN 37 CS 3033, which has been dismissed by order dated 05.10.2020, aggrieved by which, the petitioner is before this Court.

4. Heard Mr.G.R.Hari, learned counsel for the petitioner and Mr.Hasan Mohamed Jinnah, learned Public Prosecutor appearing for the State. Though notice has been served on the second respondent, none entered appearance.

5. Mr.G.R.Hari, learned counsel for the petitioner, submitted that though this Court had permitted the petitioner to even alienate the vehicle, the petitioner has not been able to enjoy the fruits of the order as the RC Book is in the custody of the trial Court.

6. A reading of the trial Court's order dated 05.10.2020 shows that the RC Book was sent to the handwriting expert for comparison purposes and on that ground, the learned Magistrate has dismissed the petition.

7. On instructions, Mr.Hasan Mohamed Jinnah, learned Public Prosecutor, submitted that the opinion of the handwriting expert has been obtained and the original RC Book is in the custody of the trial Court.

8. We gave our anxious consideration to the aforesaid submissions.

9. In our opinion, the original RC Book, which has been sent to the handwriting expert for comparison of the signature found therein with the admitted signature of one of the accused, may



be a necessary document to be marked during trial. Therefore, it may not be appropriate to hand over the original RC Book to the petitioner. However, the petitioner also cannot be left without any remedy. Therefore, we direct the petitioner to make a copy application before the learned Judicial Magistrate II, Dharmapuri, for a certified copy of the RC Book and on such application being made, the learned Magistrate shall furnish a certified copy of the RC Book on payment of necessary charges. Thereafter, the petitioner may submit necessary application before the jurisdictional RTO viz., Assistant Registering Authority, Coimbatore South, for name transfer as they have financed for the subject vehicle and they would be entitled to have their name entered in the records of the RTO as the owner of the vehicle.

With the above direction, this Criminal Revision Case is disposed of.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Judicial Magistrate II,  
Dharmapuri.
2. The Assistant Registering Authority,  
Coimbatore South.
3. The Inspector of Police DCB,  
Dharmapuri DCB.
4. The Public Prosecutor,  
High Court, Madras.

+2ccs to Mr.G.R.Hari, Advocate, S.R.No.52101

Criminal Revision Case No.1040 of 2020

GPL[co]  
NSK 27/10/2021