



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 26.03.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.123 of 2021

Babu Rajan

.. Petitioner

Vs.

The State of Tamil Nadu,
Rep. By the Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
(Crime No.617 of 2019)

.. Respondent

Prayer : This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., to call for the records and to set aside the order passed in Crl.M.P.No.5125 of 2020 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil dated 15.12.2020.

For Petitioner : Mr.A.Thiruvadikumar
For Mr.T.Nelson

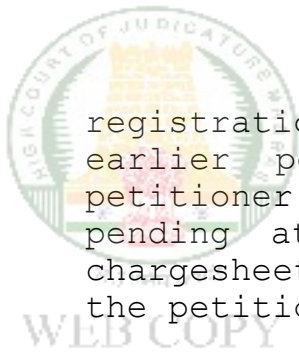
For Respondent : Mr.K.R.Bharathi Kannan
Government Advocate (Crl. Side)

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.5125 of 2020 dated 15.12.2020, on the file of the learned Principal Sessions Judge, Kanyakumari District, Nagercoil.

2.The respondent seized a lorry bearing Registration No.TN-23-AB-9599 and produced the property before the Court. Subsequently, the petitioner claiming himself as the owner of the lorry, has approached the learned Principal Sessions Judge, Kanyakumari, Nagercoil, by filing a petition for return of the lorry and the learned Judge dismissed the petition in Crl.M.P.No.5125 of 2020 dated 15.12.2021. Against which, the petitioner preferred the Criminal Revision Case.

3.On the side of the petitioner, it is stated that the FIR was registered against the petitioner in the year 2019. The vehicle was seized on 06.12.2019 and the vehicle is kept in custody for the past 1½ year. Whether the petitioner used the fake number plate can be decided only at the time of trial. The petitioner was having two registration certificates in the vehicle. Having possession of two



registration certificates cannot be taken as forging a document. The earlier petition in Crl.R.C.(MD)No.284 of 2020 filed by the petitioner was dismissed by this Court. The investigation was pending at that time and now the investigation was over and chargesheet was filed and prayed the vehicle to be returned back to the petitioner.

4.On the side of the respondent, it is stated that the number plate available in the seized vehicle is TN-23-AB-9599. The petitioner is now claiming for return of property based on a registration certificate for a vehicle bearing registration No.TN-74-M-5259. The chasis number for TN-23-AB-9599 is MBICMDWCOARVB5396. The engine number is VAH621766. The engine number and chasis number for vehicle registered as TN-74-M-5259 is NNH530811 and LNR248823.

5.It is seen that the petitioner was having two sets of documents regarding ownership the vehicle. One is registered as TN-74-M-5259 and the another is under TN-23-AB-9599. It is seen that only with some motive, the petitioner was using the wrong number plate. Since the registration certificate produced by the petitioner and the number of the vehicle is different, the petitioner is not entitled for return of the vehicle at this stage and prayed the petition to be dismissed.

6.It is seen that the petitioner has already filed a petition in Crl.M.P.No.700 of 2020 before the lower Court. On dismissal of the petition, the petitioner has approached this Court in Crl.R.C.(MD)No.284 of 2020 and the same was dismissed. The petitioner has again approached the trial Court for the same relief. The petition in Crl.R.C(MD)No.284 of 2020 was not dismissed on the ground of pendency of investigation. It was dismissed on the merits of the case. Hence, the petitioner is not entitled to re-agitate the same matter again.

7.It is seen that the case is sand theft but the case was not registered under the MMDR Act.

8.In the above circumstances, the District Collector is directed to depute a Revenue officials not below the rank of Tahsildar to file a private complaint before the Special Court within a period of one month from the date of receipt of copy of this order. On such complaint, the respondent is directed to alter the charge under the MMDR Act within a period of one month from the date of filing of the private complaint. The concerned Special Court is directed to club both the police case and the private complaint together and to take the case on file under the MMDR Act and to dispose the same in accordance with law.

9.Accordingly, this Criminal Revision Case is dismissed. The Registry is directed to send the copy of the order immediately to



the Special Court and the concerned District Collector and to the concerned Judicial Magistrate.

Sd/-

Assistant Registrar (AE)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Principal Sessions Judge, Kanyakumari District at Nagercoil.
- 2.The District Collector, Kanyakumari District.
- 3.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C. (MD) No.123 of 2021
26.03.2021

KG (CO)

KB(18.06.2021) 3P 5C