



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.829 of 2021

Vijish @ Vijesh

.. Petitioner/Petitioner/
Agreement Holder

Vs.

1.The Sub-Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.

2.Madhu

.. Respondents/ Respondents/
Complainants

[R2 impleaded vide order dated 26.11.2021
in Crl.MP(MD)No.10294 of 2021]

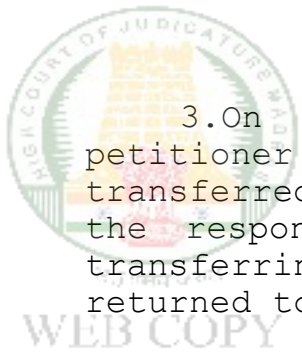
Prayer : This Revision Case is filed under Sections 397 r/w. Section 401 of Cr.P.C., to call for the records and set aside the order passed in Crl.M.P.No.3829 of 2021, dated 07.09.2021 by the Principal Sessions Judge, Kanyakumari District at Nagercoil in Crime No.43 of 2021 on the file of the Pazhugal Police Station.

For Petitioner : Mr.S.C.Herold Singh
For R1 : Mrs.M.Asha
Government Advocate (Crl. side)

ORDER

This petition has been filed to set aside the order passed by the Principal Sessions Judge, Kanyakumari District at Nagercoil in Crl.M.P.No.3829 of 2021, dated 07.09.2021.

2.The petitioner claims to be the owner of the vehicle bearing registration No.TN-75-AF-5679, which was seized by the respondent Police in Crime No.43 of 2021 under Section 379 IPC, has filed a petition in Cr.M.P.No.3829 of 2021 before the Principal Sessions Judge, Kanyakumari District at Nagercoil for the return of the vehicle. That petition was dismissed by the trial Court. Against which, the petitioner has preferred this revision case.



3.On the side of the petitioner, it is stated that the petitioner purchased the vehicle, but before the vehicle was transferred to the name of the petitioner, the same was seized by the respondent police. Due to Covid-19, there was a delay in transferring the vehicle in his name and prayed the vehicle to be returned to the petitioner.

4.On the side of the learned Government Advocate (Crl. side) for the first respondent, it is stated that the petitioner is having a previous case of similar nature and if the vehicle is returned to the petitioner, there is a possibility for the vehicle to be used for commission of similar offences again and prayed the petition to be dismissed.

5.On the side of the second respondent, it is stated that the second respondent sold the vehicle to the petitioner on 05.07.2020 and the second respondent is having no objection in the vehicle being returned to the petitioner.

6.It is seen that the vehicle was seized by the respondent police on 15.03.2021. The vehicle would stand in the name of the second respondent. It is stated that the previous owner/second respondent has filed an affidavit before this Court. A perusal of the affidavit reveals that the signature in the affidavit and in the sale agreement differs. It is seen that the vehicle is in the custody of the police for the past 9 months. If the vehicle is kept in the open place, the value of the vehicle will be deteriorated, due to the climatic conditions. Hence, this Court is inclined to allow the petition with certain conditions.

7.Accordingly, this Criminal Revision Case is allowed and the order passed in Crl.M.P.No.3829 of 2021 dated 07.09.2021 by the Principal Sessions Judge, Kanyakumari District at Nagercoil, is set aside and the vehicle /Tipper Lorry is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(i) The petitioner shall deposit a sum of **Rs.3,00,000/- (Rupees Three lakhs only)** to the credit of Crime No.43 of 2021 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil along with a bond for **Rs.10,00,000/- (Rupees Ten Lakhs only)** with two sureties for a like sum and on further condition that the **RC book is to be deposited before the Court within a period of two weeks** from the date of return of the vehicle.

(ii) The petitioner has to file an affidavit undertaking to produce the R.C.Book within a period of two weeks from the date of return of the vehicle:



(iii)The petitioner shall not make any alienation or alterations in the vehicle;

(iv)The petitioner shall produce the vehicle before the Court and before the respondent as and when required, by the Court and by the respondent.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sj i

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 Sub-Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.829 of 2021
13.12.2021

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