



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.19939 of 2021

WEB COPY

Karthick

... Petitioner

Vs.

The State represented by
The Forest Ranger,
Rajapalayam Forest Range,
Virudhunagar District.

Forest Office (Misc.OR.No.1 of 2021)

... Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside order dated 07.09.2021 passed in Crl.R.C.No.8 of 2021 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, confirming the order dated 29.03.2021 passed in Crl.M.P.No.2600 of 2021 by the learned Judicial Magistrate, Rajapalayam.

For Petitioner : Mr.R.Niresk Kumar
For Respondent : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side).

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent.

2.The petitioner filed Cr.M.P.No.2600 of 2021 before the Judicial Magistrate, Rajapalayam for return of the vehicles bearing registration Nos.TN 76 Q 0551 and TN 67 Q 3310. They were seized by the respondent in connection with Misc.OR.No.1 of 2021. The petitioner's brother is the accused in the said case. The trial Magistrate dismissed the petition on the ground that the petitioner's name is not figuring in the R.C.Book and he did not produce the original R.C.Book. The dismissal order was put to challenge before the Principal District and Sessions Court, Srivilliputhur. The Principal District and Sessions Court, Srivilliputhur by the impugned order dismissed the revision petition. Challenging the same, this criminal original petition has been filed.

3.The learned Government Advocate (Crl. Side) submitted that a second revision is barred under Section 397 of CrPC and that the said statutory bar cannot be circumvented by invoking the power of this Court under Section 482 of CrPC.



4.The objection of the learned Government Advocate (Crl. Side) is well founded. However, under some exceptional circumstances, inherent powers of this Court can definitely be exercised. I am of the view that the case on hand is one such.

5.There is no dispute that petition mentioned vehicles were seized only from the petitioner's brother. It is true that the R.C.Book reflects the name of one Kutty Raj. It is well settled that a movable property can be sold by delivery. In normal circumstances, the name of the transferee is also entered in the R.C.Book. In this case, for reasons best known to the petitioner, he had not undertaken the said exercise. The petitioner availed vehicle finance from Mega Tractors and they are now having the original R.C.Book. The petitioner's counsel states that a letter will be obtained from Mega Tractors stating that they are having the original R.C.Book in respect of the tractor and trailer. The petitioner is permitted to file a fresh petition before the trial Magistrate by enclosing a certificate from Mega Tractors. On such production, the learned trial Magistrate will allow the petition to be filed by the petitioner under Section 451 of Cr.P.C.

6.This criminal original petition is disposed of with the aforesaid directions.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 District and Sessions Court,
Virudhunagar District At Srivilliputhur.

2.The Judicial Magistrate,
Rajapalayam.



3.The Forest Ranger,
Rajapalayam Forest Range,
Virudhunagar District.

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

Crl.O.P(MD)No.19939 of 2021
15.12.2021

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