



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.304 of 2022

WEB COPY

Dhinesh Kumar

... Petitioner/Petitioner

Vs

The Sub Inspector of Police,
Paramakudi Town,
Ramanathapuram District.
(Crime No.505 of 2020)

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order dated 18.02.2022 made in Crl M.P No. 58 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act 1989 Ramanathapuram, in Crime No. 505 of 2020 on the file of the respondent Police and set aside the same by allowing the above Revision Petition.

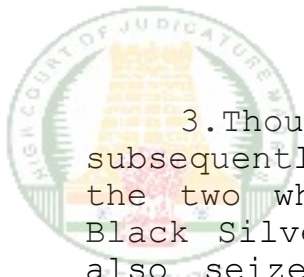
For Petitioner : Mr.B.Arun

For Respondent : Mrs.M.Aasha,
Government Advocate
(Criminal Side).

O R D E R

This Criminal Revision Case has been filed challenging the impugned order dated 18.02.2022 made in Crl.M.P No. 58 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act 1989 Ramanathapuram, thereby, dismissing the petition filed for return of property.

2.The respondent Police registered a case in Crime No.505 of 2020, alleging that on 02.09.2020, when the defacto complainant was driving his Tipper lorry, the accused persons consumed liquor on the road. When the defacto complainant requested them to clear the way, due to previous enmity, the accused persons behaved with unruly manner and abused him by uttering words, with an intention to degrade him. That apart, they also assaulted the defacto complainant and as such, he sustained simple injury.



3. Though the petitioner's name was not found in the FIR, subsequently, he was also arrayed as an accused. He is the owner of the two wheeler (Hero Motocorp Ltd Splendor +13S Self Drum Cast Black Silver STR) bearing Registration No.TN-65-AU-8551, which was also seized by the respondent, pursuant to the case registered against them. Therefore, the petitioner filed a petition in CrI.M.P.No.58 of 2022, under Section 451 Cr.P.C for return of his vehicle. The Court below dismissed the petition, for the reason that the vehicle which was owned by the petitioner, was originally purchased through Finance, viz., IDFC First Bank Limited and there is a hypothecation endorsement in the Registration Certificate. Therefore, the petitioner is not the real owner of the property.

4. On perusal of FIR, it is seen that there is no evidence to show that the vehicle bearing Registration Number TN-65-AU-8551 was involved in the crime. According to the prosecution, when the defacto complainant was driving his lorry, the accused persons obstructed and due to previous enmity, they attacked him. That apart, the petitioner purchased the vehicle, after getting financial help from the financier and there is also an endorsement of hypothecation in the Registration Certificate. If the vehicle is kept in the open place, its value will be dilapidated and deteriorated and it will not use for any other purpose. The original RC book is also with the petitioner herein.

5. In view of the above, the impugned order dated 18.02.2022 made in CrI.M.P No. 58 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act 1989 Ramanathapuram, is hereby set aside. The learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act 1989 Ramanathapuram, is directed to return the vehicle bearing Registration No.TN-65-AU-8551, to the petitioner on the following conditions:

- that the petitioner is directed to execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act 1989 Ramanathapuram;
- that the petitioner shall deposit the original Registration Certificate of the vehicle with the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act 1989 Ramanathapuram;
- that the seized items should be photographed at the cost of the petitioner herein and a list is to be prepared and the same is to be signed by the petitioner;
- that the petitioner shall not alienate and shall not make any alteration in the vehicle;
- that the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;
- If any of the conditions are violated, this order automatically stands cancelled.



6. With the above directions, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS I)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Sessions Judge,
Special Court for Exclusive Trial of
cases under SC/ST (POA) Act 1989,
Ramanathapuram.
2. The Sub Inspector of Police,
Paramakudi Town,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer, Criminal (Records),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.B.ARUN, Advocate (SR-14151[F] dated 24/03/2022)

CrI.R.C. (MD)No.304 of 2022

24.03.2022

MGJ(05.04.2022) 3P 7C