



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**
Crl.R.C. (MD)No.356 of 2022

WEB COPY

Guhan Chetti @ Babu ... Petitioner/Petitioner/2nd Accused
Vs.

State represented by
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul. ... Respondent/Respondent/Complainant

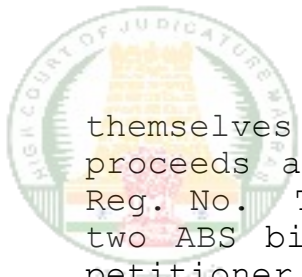
Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to Crl.M.P.No.4947 of 2021 in CC No.355 of 2020 on the file of the Learned Judicial Magistrate-I, Dindigul and set aside the order dated 16/04/2021 passed in Crl.M.P.No.4947 of 2021 in CC No.355 of 2020 on the file of the Learned Judicial Magistrate-1, Dindigul.

For Petitioner : Mr.Deivanandam
For Respondent : Mrs.M.Aasha
Government Advocate(Crl.Side)

ORDER

This Criminal Revision has been filed to call for the records pertaining to Crl.M.P.No.4947 of 2021 in CC No.355 of 2020 on the file of the Learned Judicial Magistrate-I, Dindigul and set aside the order dated 16/04/2021 passed in Crl.M.P.No.4947 of 2021 in CC No.355 of 2020 on the file of the Learned Judicial Magistrate-1, Dindigul.

2. The case of the prosecution is that on 14.08.2019 the accused persons came to the house of the defacto complainant branding them as Government officers, conducted search of the house and took away a sum of Rs. 1,00,000/- , 15 sovereigns of gold jewels and land documents in a car without having number plate. In pursuance of the said crime, a case has been registered in Crime No.467 of 2019 for the offences under Sections 170,416,419 of IPC. During the course of investigation they altered the offences into Sections 420,458,406 of IPC r/w.170,416 and 419 of IPC as against ten accused persons, in which the petitioner herein is arrayed as A2. The respondent police after completion of investigation found that the accused persons have taken a sum of Rs.8,65,00,000/-, 1 ¾ kgs of gold jewels, coin and gold biscuits and shared among



themselves and also purchased houses and lands from the crime proceeds and the Breeza car belonging to the petitioner bearing Reg. No. TN 37 DE 8347 and a Dual ABS Neaula Blue colour Jawa forty two ABS bike bearing Reg. No. TN 39 CM 1761 were seized from the petitioner on 22.11.2019 and produced before the learned Judicial Magistrate No.I, Dindigul in RPR No.182 of 2020 on 23.09.2020. Thereafter the petitioner has filed a petition under Section 451 of Cr.P.C seeking interim custody of both the vehicles. However the trial Court dismissed the same and aggrieved by the same, the petitioner preferred revision before this Court in Crl.RC(MD) No.716 of 2020 and the same was also dismissed by this Court on 05.03.2021 for the reason that the petitioner failed to produce valid documents to show that the vehicles were purchased by his own money and not from the crime proceeds. However this Court has given liberty to the petitioner to file a fresh petition and accordingly the petitioner has filed another petition for return of his vehicles in Cr.M.P. No.4947 of 2021 under Section 451 of Cr.P.C which was also dismissed by an order dated 16.04.2021. Aggrieved by the same, the present revision has been filed.

3. The learned counsel for the petitioner would submit that the said car was purchased out of selling of old car and the said car was purchased by availing loan from the private financier by an hypothecation agreement. As far as the motor cycle is concerned it was booked on 03.09.2019 on payment of entire costs of the vehicle. Both the vehicles were purchased on 03.09.2019 and 22.11.2019. He further submitted that two months prior to the date of purchase the petitioner has sold his land property on 24.04.2019. However the Court below without considering the same has dismissed the petition for return of vehicle.

4. The learned Government Advocate(Crl.Side) filed counter and submitted that there are totally ten accused in this case and the petitioner herein is arrayed as A2. Personifying police officials and income tax department officials the petitioner and others have taken away cash and jewels. While pending investigation the vehicles which were owned by the petitioner were seized and produced before the learned Judicial Magistrate No.I, Dindigul in RPR No. 182 of 2020 on 23.09.2020. After completion of investigation filed final report before the learned Judicial Magistrate No.I, Dindigul and the same has been taken cognizance in CC No.355 of 2020 and pending trial. She would further submit that this is the second petition for return of property and both the vehicles were purchased from the crime proceeds, therefore the petitioner is not entitled for return of both the vehicles, hence seeks for dismissal of the petition.

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



6. Perusal of the record reveals that there are totally ten accused in this case and the petitioner herein is arrayed as A2. Admittedly both the vehicles were seized by the respondent in pursuant to the case registered in crime No.467 of 2019 and produced before the Court below. It is further revealed that the Breeza Car bearing Reg.No.TN 37 DE 8347 was purchased under invoice to the value of Rs.8,76,061/- by selling his car on 28.08.2019 for a value of Rs.2,60,000/- which was duly acknowledged and also the petitioner has availed car loan from the HDFC bank on 27.08.2019. On perusal of the Registration Certificate for the breeza car bearing Reg.No. TN 37 DE 8347 revealed that the vehicle was purchased under loan from the HDFC bank and the same was duly endorsed in the registration certificate. In so far as the two wheeler is concerned the petitioner has booked for purchasing the two wheeler as early as on 03.06.2019. On perusal of the invoice it revealed that he had paid a sum of Rs.1,66,942/- and the two wheeler was not delivered to the petitioner on 03.09.2019. That apart even assuming that both the vehicles were purchased from the crime proceeds, namely the ill gotten money, it can be decided only at the time of trial. Provision under Section 451 of Cr.P.C is to protect the property from degradation due to non maintenance in the custody of the police as it take long time for conclusion of criminal proceedings.

7. Both the vehicles are now in broad day light from the date of seizure on 22.11.2019 and now the trial also commenced and hence no useful purpose will be served in keeping the vehicles parked in the sunlight and rain.

8. In view of the above the order passed by the learned Judicial Magistrate No.I,Dindigul in Crl.M.P.No.4947 of 2021 is set aside and the revision is allowed and the learned Judicial Magistrate No.I, Dindigul is directed to return the two vehicles of the petitioner namely Breeza Car bearing Reg.No.TN 37 DE 8347 and Dual ABS Neaula Blue colour Jawa forty two ABS bike bearing Reg. No. TN 39 CM 1761 forthwith on the following conditions:

- *that the petitioner is directed to execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only), with two solvency sureties each for the likesum to the satisfaction of the concerned Magistrate of the credit in Crime No.467 of 2019 pending on the file of the learned Judicial Magistrate No.I, Dindigul*
 - *that the petitioner shall deposit the original Registration Certificate of both the vehicles with the learned Judicial Magistrate No.I, Dindigul*
 - *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 vehicles before the Court and before the respondent police as and when required;*
- *If any of the conditions are violated, this order automatically stands cancelled.*

Sd/-

Assistant Registrar (Protocol)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1. The Judicial Magistrate No.I, Dindigul
2. The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul.
- 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.M.DEIVANANDAM, Advocate (SR-21964[F] dated
28/04/2022)

Crl.R.C. (MD) No.356 of 2022
27.04.2022

MGJ(13.05.2022) 4P 7C