



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C(MD)No.346 of 2021

and

CrI.M.P(MD)No.3503 of 2021

WEB COPY

Yesudhasan

... Petitioner/1st Accused

Vs.

1.The Sub-Inspector of Police,
Colachel Police Station,
Colachel,
Kanyakumari District.
Crime No.59 of 2019.

... 1st Respondent/Complainant

2.Nithin

... 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records to set aside the order dated 05.03.2021 passed in the memo, dated 05.03.2021 in Crime No.59 of 2019 on the file of the learned Judicial Magistrate, Eraniel and allow this Criminal Revision Petition and direct the lower Court to retain the vehicle mini bus produced by the second respondent before the Court on 05.03.2021 with the number plate TN-74-Y-4063.

For Petitioner

: Mrs.J.Anandhavalli

For R - 1

: Mr.K.Sanjai Gandhi

Government Advocate (CrI. Side)

For R - 2

: Mr.A.C.Asai Thambi

ORDER

This revision has been preferred as against the order passed in the memo, dated 05.03.2021 in Crime No.59 of 2019 on the file of the learned Judicial Magistrate, Eraniel, thereby recorded the memo and closed the memo filed by the second respondent herein.

2.The case of the petitioner is that his father owned mini buses bearing Registration Nos.TN-74-Y-4063 and TN-74-Y-2747. While being so, the father of the second respondent used to visit the office of the petitioner and acquainted with him. He forged the documents pertaining to the mini bus bearing Registration No.TN-74-Y-2747 and availed loan from the private finance. Since he defaulted in repayment of the said loan, the financier recovered the bus, after due notice. The father of the second respondent lodged complaint through the petitioner's father alleging that the financier had stolen the mini bus. The same has been registered in

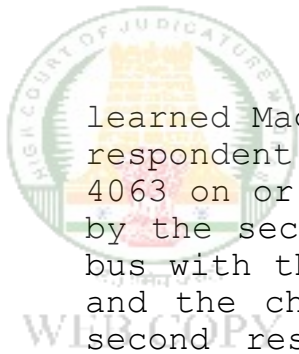


Crime No.705 of 2011 on the file of the Inspector of Police, Marthandam Police Station. After settling the amount, the bus got released. Thereafter, the petitioner's father had executed an agreement in favour of the petitioner on 01.02.2012 to transfer the ownership in favour of the petitioner. However, the RC book of the vehicles stand in the name of his father. Thereafter, the petitioner's father died on 15.03.2017. However, the second respondent's father claimed the mini bus by way of settlement deed executed by the petitioner's father in favour of the second respondent and the same was registered in Document No.48 of 2016. Therefore, the petitioner filed a suit for declaration that the settlement deed, dated 22.11.2016 is null and void in O.S.No.47 of 2017 on the file of the District Court, Kanyakumari at Nagercoil and it is pending.

3.In the mean while, the second respondent filed an application for transfer of ownership of the vehicles and the same was objected by the petitioner. However, the request made by the second respondent was rejected by the District Collector, Kanyakumari and the same was challenged before this Court in W.P(MD)No.21095 of 2018 and the same was allowed by an order, dated 10.12.2018. In pursuant to the said order, ownership of the mini bus bearing Registration No.TN-74-Y-2747 got transferred in favour of the second respondent herein. However, the petitioner challenged the order passed in W.P (MD)No.21095 of 2018 in W.A(MD)No.1716 of 2018 and the same was allowed by an order, dated 27.01.2020. Aggrieved by the same, the second respondent filed Special Leave Petition before the Honourable Supreme Court of India.

4.Insofar as mini bus bearing Registration No.TN-74-Y-4063 is concerned, the second respondent lodged complaint on 14.12.2018 alleging that the petitioner had stolen the said vehicle. In pursuant to the said complaint, a case has been registered in Crime No.59 of 2019 on the file of the first respondent and the possession of the said vehicle has been taken from the petitioner and produced before the Court. Thereafter, the second respondent filed a petition for return of vehicle in Crl.M.P.No.3830 of 2019 on the file of the learned Judicial Magistrate, Eraniel and the same was dismissed by the Court below on 03.07.2019, which was challenged before this Court in Crl.R.C(MD)No.446 of 2019 and the same was allowed. In pursuant to the same, the second respondent got custody of the mini bus bearing Registration No.TN-74-Y-4063. Thereafter, the petitioner came to understand that the second respondent dismantled the mini bus for scrap and another mini bus has been presented before the Regional Transport Officer for fitness certificate with number plate bearing Registration No.TN-74-Y-4063 and the engine number and chasis number were fraudulently altered. Therefore, the learned counsel for the petitioner filed a memo on 03.11.2020, seeking direction to the second respondent to produce the mini bus bearing Registration No.TN-74-Y-4063 before the learned Magistrate. On the

<https://hcs.econgo.in/hcs/econgo/>



learned Magistrate by an order dated 23.02.2021, directed the second respondent to produce the mini bus bearing Registration No.TN-74-Y-4063 on or before 05.03.2021. Accordingly, the mini bus was produced by the second respondent. The learned Magistrate inspected the mini bus with the help of court officers and found that the engine number and the chasis number are same. Alterations have been made by the second respondent on glasses, tyre and colour. That apart, the learned Magistrate, while returning the vehicle, no conditions have been imposed with regard to the alteration of the vehicle. The second respondent repainted the mini bus and changed the wind glass and also tyre to get fitness certificate. After inspection of the mini bus and satisfied with the reply submitted by the second respondent, closed the memo.

5.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

6.On a perusal of the materials available on record, it seems that the petitioner and the second respondent are close relatives. With regard to ownership of the vehicles, there are disputes and in that regard, already the petitioner filed a suit in O.S.No.47 of 2017 challenging the settlement deed executed in favour of the second respondent, dated 22.11.2016 on the file of the District Court, Kanyakumari at Nagercoil and the said suit is pending. Therefore, the learned Magistrate rightly closed the memo filed by the petitioner herein, after due inspection. That apart, the petitioner challenged the order of return of vehicle and the same was dismissed. Hence, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps

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 Judicial Magistrate,
Eraniel.

2.The Sub-Inspector of Police,
Colachel Police Station,
Colachel,
Kanyakumari District.

3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-8417[F] dated
24/02/2022)

CrI.R.C (MD) No.346 of 2021
23.02.2022

CK(CO)
KB(08.03.2022) 4P 7C