



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.05.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Crl.R.C(MD)No.433 of 2022

Pasumponlingam

... Petitioner/Petitioner/
Owner of the Vehicle

Vs.

The State represented through,
The Sub-Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
(Crime No.304 of 2021).

... Respondent/Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and to set aside the impugned order, dated 05.01.2022 made in Crl.M.P.No.895 of 2021 on the file of the learned Sessions Judge, Special Court for Trial under SC/ST (POA) Act, 1989, Ramanathapuram and consequently, to return the petitioner's vehicle, namely Auto bearing Registration No.TN-65-AW-6906 and its Engine No.R8F2979779 and its Chasis No.MBX 0003BFWG-674379 to the petitioner forthwith.

For Petitioner : Mr.M.S.Jeya Karthick

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

ORDER

This Criminal Revision Case is filed to set aside the order passed by the learned Sessions Judge, Special Court for Trial under SC/ST (POA) Act, 1989, Ramanathapuram made in Crl.M.P.No.895 of 2021, dated 05.01.2022.

2.The petitioner claims to be the owner of the vehicle, namely Auto bearing Registration No.TN-65-AW-6906 and its Engine No is R8F2979779 and its Chasis No is MBX 0003BFWG-674379. On 23.07.2021, the respondent Police registered a F.I.R in Crime No.304 of 2021 as against the petitioner and others for the alleged offences under sections 147, 148, 294(b), 352 and 506(ii) of I.P.C, under Section 25(1)(a) of Arms Act, 1959, under Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989, on the allegation that on the date of occurrence ie., on 22.07.2021 at about 21 hours, the accused persons came to house of the defacto complainant and developed quarrel as against his family members.



Pursuant to the registration of F.I.R, the petitioner's above mentioned vehicle was seized by the respondent on 23.02.2021 and it is in the custody of the respondent. Hence, the petitioner filed a petition in Crl.M.P.No.895 of 2021 before the learned Sessions Judge, Special Court for Trial under SC/ST (POA) Act, 1989, Ramanathapuram seeking for return of the vehicle. But the trial Court dismissed the petition, vide order dated 05.01.2022. Challenging the said order, the petitioner is before this Court with this petition.

3.The learned counsel appearing for the petitioner submitted that the vehicle was purchased by hypothecated in a private finance company and the petitioner's family is totally depending upon the income derived from the above vehicle for his livelihood. If the vehicle is not given to the petitioner, the petitioner will be put to heavy and irreparable loss and prayed for return of the vehicle to the petitioner.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.On consideration of the documentary evidence, the trial Court has dismissed the petition on the ground that "the vehicle has been duly financed with Hinduja Leyland Finance Company limited and furthermore the hypothecation has also not been terminated so far. Hence, this Court comes to conclusion that the petitioner is the ostensible owner but not the real owner and accordingly the petitioner is not entitled to get interim custody as prayed in this petition". Since the reasons stated by the petitioner in the petition are acceptable, the order passed by the trial Court is liable to be set aside.

6. Accordingly, this Criminal Revision Case is allowed and the order passed by the learned Principal Sessions Judge, Special Court for Trial under SC/ST (POA) Act, 1989, Ramanathapuram made in Crl.M.P.No.895 of 2021, dated 05.01.2022 is set aside and the learned learned Sessions Judge, Special Court for Trial under SC/ST (POA) Act, 1989, Ramanathapuram is directed to hand over the above said vehicle to the petitioner on interim custody with the following conditions:-

(a)The petitioner shall produce the attested copy of the R.C Book obtained from the financier;

(b)The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty five thousand only) to the credit of Crime No. Crime No.304 of 2021 on the file of the learned Sessions Judge, Special Court for Trial under SC/ST (POA) Act, 1989, Ramanathapuram, within a period of two weeks from the date of receipt of a copy of this order;



(c)The petitioner shall not make any alteration of the vehicle;

(d)The petitioner shall produce the same before the Court as and when required.

WEB COPY

Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Trial under
SC/ST (POA) Act, 1989,
Ramanathapuram.

2.The Sub-Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.

Copy to:

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

+1 CC to M/s.M.S. JEYAKARTHIK, Advocate (SR-23878[F] dated 20/05/2022)

Cr1.R.C(MD)No.433 of 2022
19.05.2022

MGJ(27.05.2022) 3P 6C