



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.637 of 2020

WEB COPY

Selvaraj

... Petitioner/Petitioner

Vs.

1.State through,
The Inspector of Police,
Tamil University Police Station,
Crime No.9 of 2019,
Thanjavur District.

2.Zeenath Beevi

... Respondents/Respondents

(R - 2 impleaded vide order dated 05.03.2021
in Crl.M.P(MD)No.1972 of 2021)

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order passed by the learned Judicial Magistrate No.II, Thanjavur in Cr.M.P.No.1491 of 2020, dated 07.10.2020 and set aside the same.

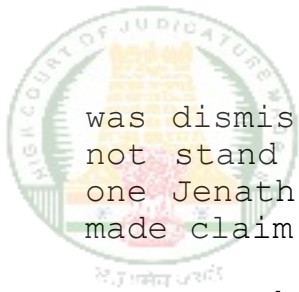
For Petitioner : Mr.R.Maheswaran

For R - 1 : Ms.M.Aasha
Government Advocate (Crl. Side)

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.1491 of 2020, dated 07.10.2020, on the file of the learned Judicial Magistrate No.II, Thanjavur, thereby dismissed the petition for return of property filed under Section 457 of Cr.P.C.

2.The petitioner purchased the vehicle Honda City Car bearing Registration No.TN-07-AU-8634 from one Jenath Beevi, Chennai. However, the said Jenath Beevi executed Form 16 to transfer the ownership of the petitioner herein and also issued delivery receipt for handing over the petitioner. Thereafter, the vehicle was hired by the accused persons and involved in Crime No.9 of 2019 for the offences under Sections 364(A), 384, 392, 506(i) and 120(b) of I.P.C. However, the petitioner is not an accused. In pursuant to the said crime, the vehicle was seized and produced before the learned Judicial Magistrate No.II, Thanjavur. While pending investigation, the petitioner filed a petition in Crl.M.P.No.1491 of 2020 for return of vehicle under Section 457 of Cr.P.C and the said petition



was dismissed for the reason that the Registration Certificate does not stand in the name of the petitioner and the original owner is one Jenath Beevi. However, even till today the original owner never made claim before the Court below.

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and perused the materials available on record.

3.On a perusal of the records revealed that the vehicle was handed over to the petitioner on receipt of the sale agreement as early as on 13.12.2018 and the second respondent also executed Form 29, 30 and 60 and transfer of ownership in favour of the petitioner herein.

4.In view of the above facts and circumstances, the order passed in Cr.M.P.No.1491 of 2020, dated 07.10.2020, on the file of the learned Judicial Magistrate No.II, Thanjavur, is set aside and the Criminal Revision Case is allowed. The learned Judicial Magistrate No.II, Thanjavur is directed to return the vehicle, subject to the fulfillment of the following conditions by the petitioner:-

(i) Accordingly, the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) with **two solvent sureties**, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thanjavur, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall surrender the original Registration Certificate of the vehicle before the concerned Court.

(iii) the petitioner shall give an unconditional undertaking to the first respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings.

(iv) the petitioner shall not change the colour and scheme of the vehicle.

(v) the petitioner shall not use the vehicle for any illegal activities.

(vi) before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.



(vii) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the first respondent.

(viii) As and when the first respondent call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the first respondent.

Sd/-

Assistant Registrar (W)

// 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 Judicial Magistrate No.II,
Thanjavur.
- 2.The Inspector of Police,
Tamil University Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

Crl.R.C (MD) No.637 of 2020
07.04.2022

RD(22.04.2022) 3P 4C