



Crl.R.C.No.1422 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.1422 of 2022

Sennappan

... Petitioner

Vs.

1. Anbu
2. Krishnan
3. The Inspector of Police,
Deevattipatti Police Station,
Salem District.

... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to set aside the order dated 08.09.2022 made in CMP No.1663 of 2022 on the file of Judicial Magistrate, Omalur.

For Petitioner : Mr.J.Pradeep

For respondents 1 & 2 : Mr.S.N.Arunkumar

For 3rd Respondent : Mr.V.Meganathan

Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Petition has been filed to set aside order dated 08.09.2022 made in CMP No.1663 of 2022 on the file of the Judicial Magistrate, Omalur.

2. The case of the petitioner in brief, is as follows.

The petitioner is owing JCB, Hitachi, Tractor along with compressor and doing agricultural construction and all types of earthmoving works. At the request of one Anbu and his father Krishnan/respondents 1 and 2, who are having 50 acres of lands in Poomarathur Village, via Yercaud, the petitioner agreed to levelling their agricultural lands on payment of Rs.85,00,000/-. Accordingly, after receiving Rs.10,00,000/- as advance, he completed the work and received the balance amount of Rs.75,00,000/-. Again, the respondents requested to level their another 10 acres of rough lands on payment of Rs.25,00,000/-. The petitioner, believing that the respondents will pay the amount of Rs.25,00,000/-, without receiving any advance, completed the work, by spending more than 25,00,000/-. After



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completion of work, on 03.03.2022 at 11.00 a.m., the petitioner went to Poomarathur and asked the respondents to settle the amount, but the respondents threatened the petitioner and his team by showing 2 country made gun and also illegally kept the petitioner's TCD 1921, Scord Tractor, Air compressor box and L & T 200 sign link vehicles into their Godown and locked and they cut the wires of the JCB vehicle. The vehicles are standing in the sun light for the past 9 months. Hence, the petitioner made a complaint against the respondent police, but they did not register the case. Hence, the petitioner made a complaint in CMP No.1663 of 2022 before the Judicial Magistrate Court, Omalur, however, the learned Magistrate dismissed the petition, stating that already FIR was registered for the same occurrence in Crime No.119 of 2022 on the file of the Inspector of Police, Pappireddipatty Police Station, Dharmapuri District. Aggrieved over the above said order, this Criminal Revision Petition has been filed.

3. The learned counsel for the petitioner submitted that there are two difference incidents happened in two different places. The present incident



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happened in Poomathur Village, Omalur Taluk, Salem District, where, the respondents assaulted the petitioner with Country made gun and also taken the vehicles TCD 1921 Scord Tractor, Air compressor Box, L & T 200 Sign Link from that place and kept the same in their godown and locked. The vehicles are now keeping under the illegal custody of the respondents 1 and 2, come under the jurisdiction of the third respondent police. Further, the above said facts are not included in the complaint registered in the Pappireddipatty Police Station in Crime No.119/2020. However, the Trial Court, without considering the above facts, had dismissed the petition. Hence, this Criminal Revision Case may be allowed and the complaint may be taken file by registering the case.

4. The learned counsel for the third respondent police filed a detailed Status Report dated 01.02.2023, wherein, it is stated as follows:

" 14. It is submitted that In compliance with the earlier direction of this Court, the respondent police have summoned both the parties i.e. Krishnan and Anbu @ Sundaramoorthy and conducted a detailed enquiry. During the course of enquiry, Anbu @ Sundaramoorthy has



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given a statement on 18.12.2022 that he has purchased the above vehicle from a scrap merchant at Tiruchengodu in Namakkal District and they have been using the vehicle for own purpose.

15. It is submitted that on 28.01.2023, during further enquiry, Anbu @ Sundaramoorthy and Krishnan gave statements in writing that they came to found the document in proof of the purchase of the vehicle, from his mother's trunk box recently, after her demise. The said document is a sale deed dated 26.02.20176, executed by M/s Malabar Granites, Kannanvettikkavu Post, via Pulikkal, Malapuram, Kerala is the original owner of L & T Komatsu – 200 Hydraulic Excavator bearing Sl.No.NL14920, invoice No.910703348, product code : 20285099V, dated 29.11.2007. The said sale deed in respect of the above vehicle was executed in favour of Mrs.Kamalam, w/o Krishnan, Door No.983, Palakkadu Village, Molaiyanur Post, Papporeddipatti Taluk, Dharmapuri District 606 904 for a sale consideration of Rs.7lakhs.

16. It is submitted that the respondent also enquired the petitioner Sennappan on 28.01.2023. The petitioner also gave a statement that he has submitted the copies of the records in proof of the vehicle ownership, wherein he has categorically stated that he purchased the above vehicle from K.Murugan , s/o Krishnan, vide agreement for sale of Hydraulic Excavator, dated 15.08.2022 for a sale consideration of 9 lakhs.



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17. It is submitted that the petitioner has given a notarized copy of the agreement for sale of Hydraulic Excavator in which it was particularly mentioned that the vehicle was originally belongs to Sri.Aradhana Granite Works. Gopalapuram, who purchased the said vehicle from L & T Komatsu limited during the year 2011, vide invoice No.911100635, dated 30.05.2011. The said invoice confirm the fact that the product code/description No.NL1A694 tallies with the number as found in the above vehicle and its relevant year 2011.

18. It is submitted that on the contrary, Anbu @ Sundaramoorthy and Krishnan produced the invoice bearing No.910703348, dated 29.11.2007. On perusal of the invoice, it came to light that the product/description number did not tally with the particulars as given by the petitioner. But, it was found that the product description number was entirely different as found in the invoice, namely NL14920.

19. It is submitted that as per the direction of this Court, the respondent police has given a written requisition to M.S.Engineers, authorized dealer of L & T Komatsu Sales and Service, Salem on 29.01.2023 to inspect the vehicle and to authenticate the Engine No., Chassis No and other technical specification pertaining to the vehicle.

20. It is submitted that the above vehicle description number was given to M.S. Engineers authorized dealer of L & T Momatsu Sales and Service, Salem to verify the genuineness of the vehicle



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description. In this regard, T.A.Saravanan, Service Manager had inspected the vehicle at Poomarathur Village in the land belonging to Krishnan on 30.01.2023 in the presence of Ganeshamoorthy, who is the son of Krishnan and their driver, besides, the petitioner and 2 independent witnesses, a videographer arranged by petitioner. It is submitted that thereafter, a detailed inspection report was submitted to the respondent police. The said inspection report inter alia confirmed that on scrutiny of both the invoice submitted by the Anbu @ Sundaramoorthy and Sennappan, the invoice submitted by the Anbu @ Sundaramoorthy does not relate entirely to the vehicle particulars of the present petition mentioned vehicle. Further, the report indicates that the number as found in the vehicle is a newly engraved one. The new number is engraved above very next to the actual number. It is submitted that upon the technical vehicle inspection report, the respondent also verified the presence of the newly engraved number found above the actual number.

21. It is submitted that the respondent police completed with the vehicle inspection and now deployed a police man round the clock at the above land where the vehicle is parked by ensuring absolute protection. The Special team constituted in this regard is taking all their sincere and effective steps to trace the missing tractor and compressor immediately."



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5. Considering the above report, it is clear that the respondents 1 and 2 have retained the vehicles of the petitioner illegally. Accordingly, this Court is of the view that the impugned order passed by the learned Judicial Magistrate, Omalur in CMP NO.1663/2002 dated 08.09.2022 is liable to be set aside.

6. Accordingly, this Criminal Revision case is allowed, by setting aside the impugned order dated 08.09.2022 passed in CMP No.163/2002 by the Trial Court. The complaint of the petitioner is ordered to be restored on file and forwarded to the third respondent police under Section 156(3) of Cr.P.C. for registering the case and to investigate and file final report.

01.02.2023

Index: Yes/No
Internet: Yes/No
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1. The Judicial Magistrate, Omalur.
2. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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