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Crl.R.C.No.1901 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.11.2023

PRONOUNCED ON : 29.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1901 of 2023

Sankar

... Petitioner

Vs.

The Inspector of Police,
Vaniambadi Town Police Station,
Vaniambadi, Thirupathur District.
[Cr.No.561/12].

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 26.09.2023 on the file of Judicial Magistrate, Vaniambadi in Crl.M.P.No.6791 of 2023 and allow the above Crl.R.C.

For Petitioner : Mr.V.V.Sairam

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 26.09.2023 in Crl.M.P.No.6791 of 2023 passed by the learned Judicial Magistrate, Vaniyambadi.



2.The petitioner/defacto complainant in Crime No.561 of 2012 has filed a petition under Section 451 Cr.P.C., before the learned Judicial Magistrate, Vaniyambadi in Crl.M.P.No.6791 of 2023 seeking return of original Registration Certificate (RC book) and also grant permission to sell his lorry bearing Registration No.TN 28 P 9545, Engine No.WFH395633 and Chassis No.WFR233486 since the vehicle has become old worn out having regular breakdown and soon to become immobile. The lower Court dismissed the petition finding that the lorry of the petitioner was earlier returned to him as per the order of this Court, dated 08.10.2012 in Crl.R.C.No.949 of 2012 with one of the condition that the original RC book of the vehicle to be obtained and retained by the lower Court and further, condition that the petitioner not to alienate or encumber or alter the vehicle in any manner. Aggrieved over the same, the present Criminal Revision Case is filed.

3.The learned counsel for the petitioner submitted that the petitioner on 09.06.2012 lodged the complaint to the respondent Police that he was running transport business with two lorries and he intended to sell one of it to repay the financiers Cholamandalam Finance. As a result, the lorry bearing registration No.TN 28 P 9545 of 2006 model was entrusted to Balaji Auto Consulting Proprietor Muniyappan and also to the lorry broker Rajendran. On 09.12.2011,



at about 10.45 a.m., Krishnasamy, Saravanan, Rajkumar and Ramesh met the petitioner, inspected the lorry and fixed the price as Rs.9.25 lakhs. The said Krishnasamy paid Rs.2 lakhs as advance, for balance payment, there was an agreement between them. At that time, the photostat copy of the lorry, Registration Certificate, Insurance, FC and other documents were handed over to them. The lorry was taken by Krishnasamy with the promise that the balance amount would be paid shortly. Neither the balance amount paid nor the lorry returned. Thereafter, the petitioner came to know that his lorry bearing registration No.TN 28 P 9545 has been changed to TN 37 AR 6868, forged documents created and the lorry was with one Periyasamy. The petitioner with all these details gave a complaint to the respondent Police, for which, a case has been registered in Crime No.561 of 2012 for offence under Sections 409, 420 and 471 of IPC on 09.06.2012 against four persons.

4.During investigation, the lorry was seized, on coming to know about the same, the petitioner filed Crl.R.C.No.949 of 2012 before this Court. This Court, by order, dated 08.10.2012 recorded the investigation being conducted and also forensic expert finding that the lorry of the petitioner bearing registration No.TN 28 P 9545, Engine No.WFH395633 and Chassis No.WFR233486 have been changed and the petitioner is the real owner of the



vehicle, the vehicle bearing registration No.TN 28 P 9545 was directed to be

returned by order, dated 08.10.2012 with the following conditions:

“i)The petitioner shall establish the ownership of the vehicle in question by producing the original Registration Certificate (RC Book) of the vehicle and other relevant records to prove her ownership and the learned Magistrate, on perusal of the RC Book and other records, is directed to retain the R.C book till the disposal of the case.

ii)The petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees two lakhs only) with two sureties each for a like sum to the satisfaction of the learned Principal District Munsif cum Judicial Magistrate, Vaniyambadi.

iii)The petitioner shall not alienate or encumber or alter the vehicle in any manner till the disposal of the criminal case.

iv)The Court below shall effect return of the vehicle to the revision petitioner after causing necessary photographs and panchanama. The panchanama shall be drawn up by an officer of the Court in the presence of two panchayatdhars and in the immediate presence of the Presiding Officer of the Court.

v)the petitioner shall filed an affidavit of undertaking to the effect that he will produce the vehicle in question as and when it was directed to be produced by the Court below during the course of trial.”



5.He further submitted that the vehicle is of the year 2006, which is completed a run of 17 years. The petitioner is running transport business.

Whenever the lorry had gone for trip, the lorry had break down causing huge loss to his business name and reputation, hence, the vehicle needs replacement. Due to the condition of original RC book with the custody of the lower Court and with the condition that the lorry should not be altered or disposed, the petitioner has been put to great hardship. He further submitted that the petitioner's RC book can be substituted with the photostat attested copy of the RC book and inventory can be drawn in presence of the Magistrate giving all the details of the vehicle such as Registration Number, Chassis Number and Engine Number with photographs, CD by way of mahazar in presence of Magistrate and that can be used as a primary evidence during trial. Thus, the interest of the prosecution and the trial can be safeguarded. With the above, the vehicle can be handed over to the petitioner. Hence, he prayed for setting aside the order of the lower Court.

6.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner is the defacto complainant in Crime No.561 of 2012. On his complaint, a case has been registered arraying four persons as accused, now investigation completed listing LW1 to LW13 and various



documents collected. He further submitted that LW9 Mathesh, son of Periyasamy produced the vehicle TN 28 P 9545, thereafter seized, Form-95, dated 15.06.2012 prepared, vehicle sent for forensic examination and forensic report, dated 19.10.2012 received from LW10, Junior Scientific Officer. LW10 also gave a statement under Section 161 Cr.P.C. The report of LW10 is as follows:

“On the Basis of above observations it is opined that:

- 1. The existing number “WFT 233486” on the chassis of the lorry was stamped after erasing the number “XFR 23264”.*
- 2. The existing number “WFH 395633” on the engine of the lorry was stamped after erasing the number “XFH-----”, AND,*
- 3. The existing registration number “TN 37 AR 6868” on the front and rear number plates of the lorry was painted after obliterating the previous number “TN 28 P 9545”.*

The above described lorry is returned herewith.”

Hence, he prayed for dismissal.

7.Considering the submissions and on perusal of the materials, it is seen that the forgery has been committed removing/doctoring the Engine number, Chassis number and the vehicle registration number of the petitioner's vehicle. Now, the investigation completed. It is also seen that the vehicle is of the year



2006 and its life is almost completed. The petitioner is unable to deal with his lorry in view of the conditions stated above in Crl.R.C.No.949 of 2012. The only concern of the learned Additional Public Prosecutor is that the trial should not be hampered and no adversity to the case to be created due to return of the vehicle.

8.In view of the same, this Court is of the view that the interest of the prosecution as well as the petitioner can be addressed. Hence, this Court is inclined to set aside the impugned order with the following directions.

(i)The lower Court is directed to return the original RC book to the petitioner substituting attested photocopy of original RC book.

(ii)The petitioner to file an affidavit giving original particulars of the vehicle such as Registration Number, Chassis number and Engine Number.

(iii)The petitioner shall produce photographs/CD of the vehicle with 65B Certificate. This proceedings to be recorded in presence of the learned Judicial Magistrate, Vaniyambadi and the same can be used as primary evidence for the case.

(iv)The petitioner is permitted to sell the vehicle.

(v)The petitioner to execute a personal bond for Rs.2,00,000/- with the undertaking that he shall abide by any order or direction given by the trial



Crl.R.C.No.1901 of 2023

Court at the conclusion of the trial as per the evidence rendered and finding by the trial Court.

9.With the above directions, the Criminal Revision Case is allowed setting aside the impugned order of the lower Court, dated 26.09.2023.

29.11.2023

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

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To

1.The Judicial Magistrate Court,
Vaniambadi.

2.The Inspector of Police,
Vaniambadi Town Police Station,
Vaniambadi, Thirupathur District.

3.The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.1901 of 2023

M.NIRMAL KUMAR., J.

vv2

PRE-DELIVERY ORDER IN
Crl.R.C.No.1901 of 2023

29.11.2023