



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01/03/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.RC(MD)Nos.56 and 158 of 2023

(1)Cr1.RC(MD)No.56 of 2023:-

P.Rajapandian : Petitioner/Petitioner/
Financier of vehicle

Vs.

1.State rep. By
The Inspector of Police,
Kottampatti Police Station,
Madurai District.
(Crime No.356 of 2020)

2.Pauljose Stephen

3.D.Chakkaravarthy : Respondents/Respondents

Prayer:- This Criminal Revision has been filed under section 307 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the order, dated 02/12/2022 made in Cr1.MP No.849 of 2022 in Crime No.356 of 2021 on the file of the Judicial Magistrate Court, Melur, Madurai District.

For Petitioner : Mr.A.Ganesan

For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.R.Alagumani

For 3rd Respondent : Mr.A.Gopal



2

(2) Cr1.RC(MD) No.158 of 2023:-

WEB COPY

Pauljose

: Petitioner

Vs.

State through,
The Inspector of Police,
Kottampatti Police Station,
Madurai District.
(Crime No.356 of 2020)

: Respondent

Prayer:- This Criminal Revision has been filed under section 307 r/w 401 of the Criminal Procedure Code, to call for the records connected with the impugned order passed in Cr1.MP No.855 of 2022, dated 02/12/2022 on the file of the Judicial Magistrate, Melur, and set aside the same, consequently, direct the learned Judicial Magistrate, Melur to grant interim custody of the vehicle E COMET Ashok Leyland bearing registration No.TN-16-E-8377 in accordance with law within the time stipulated by this court.

For Petitioner : Mr.R.Alagumani

For Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

COMMON ORDER

These criminal revisions have been filed seeking interim custody of the vehicles, by setting the impugned order of the learned Judicial Magistrate, Melur.



WEB COPY

2. The facts in brief:-

A case in Crime No.356 of 2020 was registered on the file of the Inspector of Police, Kottampatti Police Station in the following grounds:-

The de-facto complainant is the Supervisor in the TASMALC shop in Kachirayanpatti village. On 28/05/2020, at about 07.30 pm, after closing the shop, they went to home. On 29/05/2020 at about 10.00 am, the sales-man namely Paulraj and Kanniappan opened the shop. At the time, they found the stocks found stolen. The stocks that were found stolen is worth about Rs.3,75,570/-. They also given the list of stolen stocks. On the basis of the above said occurrence, the case was registered.

3. During the course of investigation, the involvement of the vehicle bearing registration No.TN-16-E-8377 was found. So, it was recovered on identification made by the Karuthapandi near the residence of one Chakkaravathy. It was produced before the trial court and remanded to custody.



4. Seeking interim custody, Paul Jose stating that he is the owner of the above said vehicle filed Crl.MP No.855 of 2022 before the trial court.

5. Similarly, the Collection Manager, attached to HDB Financial Service Limited namely P.Rajapandian has also filed a similar petition in Crl.MP No.849 of 2022 before the trial court.

6. Both the petitions were heard together and a common order was passed by the trial court, dismissing the petitions stating that the ownership with regard to the property will be decided at the time of trial, as the case may be, on the ground of rival claim that has been made by both of them.

7. Against which, these revisions have been preferred separately.

8. Heard both sides.

9. The learned counsel, who is appearing for the Finance Company namely HDB Finance Service Limited would



represent the very same argument that was advanced before the trial court. He would submit that because of the fault that was committed by Paul Jose, who is the petitioner in Cr1.MP(MD)No.158 of 2013, action was initiated and the vehicle was re-possessed and it was in-turn sold to D.Chakkaravarthy, who is the 3rd respondent in Cr1.RC(MD)No.56 of 2023. According to him, since the property was repossessed by the Finance Company, the above said Paul Jose cannot be construed as the owner no more.

10.But however, the learned counsel appearing for the petitioner (Paul Jose) in Cr1.RC(MD)No.158 of 2023 would submit that without following due process properly, the above said repossession and subsequent fake sale has been effected by the Finance Company. Thus, now he is ready to pay the instalments and being the owner of the property, he must be returned with the same.

11.So far as the third respondent namely D.Chakkaravarthy is concerned, he would say that since he purchased the property from the Finance Company, he became the unlawful owner.



12. Whether the Finance Company has taken the vehicle in a lawful manner cannot be a matter for consideration, either by the trial court or by this court. It is a matter for consideration by the competent authority through properly initiated proceedings. I am not going into all those aspects now, as rightly stated by the trial court also.

13. The interim custody can be granted to the person, who is the present owner. Now as per the case of the Finance company, the 3rd respondent is the present owner. Only the 3rd respondent namely D.Chakkaravarthy can seek an order of interim custody. Neither the Finance company nor the above said Paul Jose, who is the erstwhile owner can claim the ownership of the property.

14. So, I find no merit in both the matters. But however, liberty may be granted to the 3rd respondent namely D.Chakkaravarthy to file appropriate proceedings seeking interim custody. If it is filed, the same may be considered by the concerned court on its own merit.



WEB COPY

15. In the result, both criminal revisions are **dismissed**. However, the 3rd respondent namely D.Chakkaravarthy in CrI.RC(MD)No.56 of 2023 is permitted to move appropriate petition before the trial court seeking interim custody. If such petition is filed, the same may be decided on its own merits by the trial court.

01/03/2023

Index:Yes/No
Internet:Yes/No
er

To,

- 1.The Inspector of Police,
Kottampatti Police Station,
Madurai District.
- 2.The Judicial Magistrate,
Melur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



8

G. ILANGO VAN, J

er

Cr1.RC(MD) Nos.56 and 158 of 2023

01/03/2023



WEB COPY

