



Crl.R.C.No.380 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Orders Reserved On 25.03.2024	Orders Pronounced On 08.04.2024
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Crl.R.C.No.380 of 2023
and Crl.M.P.No.3931 of 2023

Sree Jaya Nair

... Petitioner

Vs.

1.State rep. By
The Inspector of Police,
District Crime Branch,
Coimbatore.

2.Harivarasan Srinivasan
[R2 impleaded as per order dated 31.03.2023
in Crl.M.P.No.4471 of 2023]

... Respondents

PRAYER: Criminal Revision Case filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.6684 of 2022 in Crime No.28 of 2022 on the file of the learned Judicial Magistrate No.II, Pollachi and set aside the order dated 02.02.2023 and return the horses to her from the above case.



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For Petitioner : Mr.B.Kumar
Senior Counsel
for Mr.V.Kasinatha Bharathi

For R1 : Mr.S.Raja Kumar
Additional Public Prosecutor

For R2 : Mr.I.Abrar Md.Abdullah

ORDER

The petitioner/defacto complainant in Crime No.28 of 2022 filed a petition under Sections 451 and 457 Cr.P.C. in Crl.MP.No.6684 of 2022 before the learned Judicial Magistrate No.II, Pollachi, claiming that she is the absolute owner of 13 horses which was seized in Crime No.28 of 2022 and to hand over the interim custody of the horses to the petitioner for proper care and well being of the horses. She further undertook to produce the horses as and when directed to do so. But the Trial Court dismissed the said petition by order dated 02.02.2023. Against which, the present revision petition is filed.

2.The contention of the petitioner is that the petitioner is residing in



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Dubai for the past 20 years, she had a liking towards horses and hence, purchased 15 horses from various persons for a sum of Rs.80.11 lakhs. The petitioner's husband through facebook came to know about one Harivarasanan, who claim that he has got vast lands and knowledge about upkeeping of horses in a healthy condition, the petitioner came in contact with Harivasanan, who claimed that he has got good experience in maintaining horses in the vast stable he owns, the petitioner handed over the horses to him and also transferred Rs.75,97,000/- through her bank account to the said Harivarasanan for upkeeping and maintaining the horses. The petitioner's husband registered a Company in the name and style of Harrybhai Studs and Farms. After sometime, Harivarasanan was also included as partner in the firm but that has got nothing to do with the petitioner handing over of horses to him for maintenance. On 05.05.2022, when the petitioner visited the horse stable in Unjavelampatti, Pollachi, she came to know that some horses were ill and two horses died due to improper maintenance. The death of horses not informed to the petitioner. When the petitioner questioned the said Harivarasanam, he apologized and assured that in future horses would be maintained in good condition. Again on



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27.08.2022, the petitioner along with her husband and friends visited the stable to find out the health condition of the horses which was stoutly objected by the said Harivarasan. The petitioner lodged a complaint in Gomangalam Police Station and a case in Crime No.220 of 2022 for the offence under Sections 294(b), 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act registered. On completion of investigation, charge sheet filed against the said Harivarasan, his brother Aravind Krishnan and his father K.B.Srinivasan. It was informed that three baby horses died and one horse was pregnant on that day. The petitioner's husband removed Harivarasan from his Company. It was also informed that accused, diverted and sold horse feeds by creating fake receipts. Further, the horses were taken for mating, by which Rs.12 lakhs income made, but not accounted. Two horses viz., Maya and Chaya sold to third parties and only 13 horses available in their custody.

3.On the complaint of the petitioner, a case in Crime No.28 of 2022 for the offence under Section 120(b), 403, 406 and 420 IPC registered by the District Crime Branch, Coimbatore, horses were seized on 13.12.2022



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and entrusted to the custody of the learned Judicial Magistrate No.II, Pollachi in P.R.No.378 of 2022 dated 15.12.2022. The accused in this case were arrested on 13.12.2022 and they were released on bail on 14.12.2022. One of the condition is that they shall cooperate with the investigation and submit relevant documents supporting their claim of ownership of the horses. Thereafter, the petitioner filed a petition seeking return of horses in Crl.M.P.No.6684 of 2022 and A1/second respondent herein filed a petition seeking return of horses in Crl,M.P.No.6683 of 2022 before the learned Judicial Magistrate No.II, Pollachi. The Trial Court dismissed both the petitions. Challenging the order of dismissal in Crl.M.P.No.6684 of 2022, the petitioner/defacto complainant filed the present revision petition.

4.The contention of the learned senior counsel is that the petitioner, an NRI permanently residing in Dubai for the past 20 years with her husband. The petitioner's father and mother are residing at Chithilacheri, Palakkad, Kerala. Since the petitioner had a liking for horses, she used to purchase horses. The details of the horses purchased by the petitioner, date of purchase, cost and the name of the vendor are as follows:



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S.No.	Name of the Horse	Gender of Horse	Date of Purchase	Cost of the Horse	Name of the Vendor
1.	Devarath	Male	28.05.2020	Rs.4 Lakhs	Patel Raj, Gujarat
2.	Oscar	Male	14.08.2020	Rs.11.11 Lakhs	Rajesh Ramesh Sathput, Maharashtra
3.	Pinaka	Male	21.01.2021	Rs.3 Lakhs	MusdakPaloch, Gujarat
4.	Raj Prince	Male	25.01.2021	Rs.24 Lakhs	Yuvaraj Jadeja, Gujarat
5.	Durga	Female	25.01.2021	Rs.3 Lakhs	Yuvaraj Jadeja, Gujarat
6.	Jodha	Female	25.01.2021	Rs.2 Lakhs	Yuvaraj Jadeja, Gujarat
7.	Kesar	Female	25.01.2021	Rs.12 Lakhs	Yuvaraj Jadeja, Gujarat
8.	Raj Karani	Female	25.01.2021	Rs.5 Lakhs	Yuvaraj Jadeja, Gujarat
9.	Pawan	Female	25.01.2021	Rs.7 Lakhs	Yuvaraj Jadeja, Gujarat
10.	Virat	Male	15.09.2021	Rs.2.5 Lakhs	Varunraj, Gujarat
11.	Kavery	Male	25.01.2021	Rs.1 Lakh	Yuvaraj Jadeja, Gujarat
12.	Kajal	Female	25.01.2021	Rs.1 Lakh	Yuvaraj Jadeja, Gujarat
13.	Maya	Female	25.03.2022	Rs.1.25 Lakhs	Balasubramanian
14.	Chaya	Female	25.03.2022	Rs.1.25 Lakhs	Balasubramanian
15.	Ekadesi	Female	Nil	Nil	Yuvaraj Jadeja, Gujarat

5.He would submit that the petitioner's husband came in acquaintance with Harivarasan Srinivasan [A1 in Crime No.28 of 2022] through



facebook. The said Harivarasanan introduced his brother Aravind Krishna and his father K.B.Srinivasan to the petitioner's husband. The petitioner's horse, namely, Raj Prince won the Coimbatore Horse Show and Oscar won many shows across India. These horses needed special feed of dry and green fodder and they need to be groomed daily, their legs and hoof have to be taken care on weekly basis. Further, the feed should include mineral mixture and calcium to maintain them in show condition. A1 represented to the petitioner's husband that they have land worth Rs.300 Crores in Unjavelampatti, Pollachi Taluk, they are the owners of the land and the horses can be reared in the stable. They promised that all the 15 horses of the petitioner would be reared and maintained in a good condition and the petitioner is required to pay for the expenses to meet the feed cost, maintenance cost, infrastructure cost, land rent, salary of employees and in turn, the said Harivarasanan promised to return the horses and profit made from the horses to the petitioner. The petitioner handed over 15 top breed horses to them. Later, a sum of Rs.75,97,000/- was transferred from petitioner's bank account of Union Bank of India, Dhanalakshmi Bank of Palakkad Branch to the account of M/s.Ram Avathar Mills of



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K.B.Srinivasan/A3 in City Union Bank, Pollachi, account of Mrs/.Krishna Avathar Mills in TMB Bank, Pollachi, account of Harivarasan Srinivasan in TMB Bank, Pollachi, account of Aravind Krishnan in HDFC Bank, Pollachi, account of Aravind Krishnan's friend Nirmal in SBI, Pollachi, Raj Deepak in KVB, Pollachi, Balaji in HDFC Bank, Pondicherry and account of Chinnadurai in SBI Bank.

6.He would further submit that the petitioner's husband Haridas Kondath along with petitioner's father Unni Krishnan in Kerala started a Company under the name and style of Harrybhai Stud and Farms LLP registered under Kerala Companies Act. The petitioner's husband and father deceived on the representation and conduct of the said Harivarasan, inducted him as one of the partner of the said Company for namesake for better future business by partnership deed dated 13.12.2020. Thereafter, finding that the said Harivarasan failed to keep up the promise and undertaking and committed cheating and misappropriation and some of the horses died due to improper maintenance and also finding that the said land does not belong to him, the petitioner's husband removed the said



Harivarasanan from the partnership. Further, on 05.05.2022 when the petitioner visited the horse rearing stable in Unjavelampatti, Polachi to find out the health condition of the horses, she came to know that the horses were suffering from illness, two foals, namely, Jotha and Kaveri died due to improper care. When she enquired the same, Harivarasanan/second respondent assured that they would consult Veterinary physician and maintain the horses with good care in future and such incident will not occur in future. The petitioner advised the Harivarasanan and others to properly maintain and upkeep the horses. Again on 27.08.2022, when the petitioner along with her husband his friends, namely, Balasubramaniam and Jute Zerald visited the horse rearing stable, trouble created by the said Harivarasanan, for which complaint was lodged to the Gomangalam Police Station and case was registered. The second respondent used the Stallion for breeding excessively and their health condition deteriorated, the pregnant mares are very weak and need veterinary care from specialized Doctors but no proper medical treatment provided. Babies of three mares died after delivery due to lack of nutrition and proper care. He would submit that without feeding the horses, the second respondent diverted and



sold the horse feeds purchased from the money sent by the petitioner by creating fake receipts using the petitioner's husband Company name and cheated the petitioner. The accused gained around Rs.25 lakhs by engaging the petitioner's male horses for mating and retained the amount with them. Further, the accused sold the petitioner's horse Maya to one Narman of Trichy and another horse Chaya to a person from Ooty projecting as though the sale was approved and authorized by petitioner's husband and calling them in the name of petitioner's husband as if he spoke to them.

7.After registration of the case and finding that the horses were not properly maintained, 13 horses were seized by the respondent police which are as follows:

S.No.	Name of the Horse
1.	Raj Prince
2.	Virat
3.	Oscar
4.	Pinaka
5.	Kajal
6.	Kaveri
7.	Jodha
8.	Durga



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S.No.	Name of the Horse
9.	Ekadeshi [Durga's Baby Horse]
10.	Rajkami
11.	Pawan
12.	Kesar
13.	Kajal's Baby Horse

The horses seized by the Police are not ordinary horses and they belong to indigenous Marwari breed. Due to non-feeding of horses by the accused, the health condition of the horses became dangerous and the petitioner being the owner of the horses has got every reason to take care of the horses and to save their life and for their well being.

8.The petitioner filed the documents such as sale/purchase agreement, passport of the horses and 16 other documents to prove the ownership of the horses. The Trial Court finding that the documents were not original and only photostat copies, had not considered the same. During enquiry, no such objection was raised by any of the respondent. In view of the same, the finding of the Trial Court is not proper. The Trial Court accepted that the horses are rare breed and they require proper care, good maintenance,



healthy feed, shelter and medicare but dismissed the petitioner's claim for the only reason that the documents produced were photostat copies. It is nobody's case that the photostat copies produced was not genuine or objected to by the respondent and the counter claimants. The entrustment of the horses is not disputed. The dispute raised by the counter claimant is that he invested in maintenance of horses and hence, he has right to retain them which is a civil dispute, for which, already civil suit filed by the counter claimant in O.S.No.225 of 2022 before the District Munsif Court, Pollachi. Against which, the petitioner filed a civil revision petition before this Court in CRP(PD).No.2913 of 2022 and this Court by order dated 23.09.2022 granted stay of all civil proceedings. The claim of the counter claimant is for damages a civil dispute which the Civil Court can decide. He further submitted that thereafter, the horses were entrusted to RM Stud Farm wherein also two horses died and postmortem conducted. Thereafter, the horses were shifted to the Saru Royal Riders Farm at Sathyamangalam. The petitioner is paying for upkeep of the horses till date and the counter claimant seldom bothered to take care of the maintenance, since he is not the owner and not interested in the welfare of the horses and his only aim is



to make money using the horses of the petitioner. Since the ownership of the horses is not in dispute, the horses can be entrusted to the custody of the petitioner.

9.The learned counsel for the second respondent submitted that the petitioner had not denied the entrustment of horses to the second respondent's stable for its maintenance and to prepare it for the shows. Thereafter, there have been regular interaction by the petitioner with the second respondent and the petitioner was regularly updated about the maintenance and health condition of the horses. The entrustment was coupled with interest of the second respondent. He would submit that the second respondent was made as a partner in Harrybhai Stud Farm LLP, in which the petitioner's husband Haridas Kondath and her father Unni Krishnan are the other partners. The second respondent was entrusted with several task and duties as could be seen from the partnership deed which is a detailed one. As per the partnership deed, the second respondent continued to take care of the horses, received money from the petitioner and utilized the same for the upkeep of the horses. The petitioner's husband and



father failed to fulfil their obligations and there was some dispute. The second respondent made certain claims to safeguard his interest and the expenses he incurred. But the petitioner's husband and father in a deceitful manner removed the second respondent from the partnership and thereafter, they attempted to enter into the Stud farm to forcibly remove the horses, which was resisted by the second respondent and lodged a complaint before the Gomangalam Police Station, C.S.R. number assigned and thereafter, there is no progress.

10.He would submit that the petitioner's attempt through Gomangalam Police to forcibly remove the horses failed and thereafter, a complaint was lodged to the Superintendent of Police which was forwarded to the Deputy Superintendent of Police which was again forwarded to the District Crime Branch, Coimbatore, who registered a case in Crime No.28 of 2022 and thereafter, the respondent police with a battalion of police came to the stud farm of the second respondent, forcibly removed the horses without taking proper steps, as required in transporting the horses and thereby, the horses severely hurt. The second respondent resisted the force,



questioned the manner in which the horses are being removed without trained persons, proper equipments and vehicles. The horses were cleared like a garbage. The second respondent was arrested in the case on 13.12.2022 and when they were produced for remand, the learned Magistrate considering the case granted bail immediately on 14.12.2022. Thereafter, the second respondent worried about the condition of the horses to be maintained by RM Stud Farm filed a petition seeking return of horses. The Trial Court dismissed both petitions filed by the second respondent and the petitioner, failing to consider that return of property is for a livestock wherein each minute and day counts. He further submitted that during the custody in the present stud farm, one more horse died. The other allegations by the petitioner that the second respondent diverting the horse feeds in the name of the partnership firm are matter of disputed fact for which civil suit has already filed and arbitration proceedings to be initiated which are to be decided in the Civil Court and now citing the registration of the criminal case, the life of horses cannot be taken in a playful manner. He further submitted that he is not aware about the understanding and arrangement between the petitioner, her husband and father. In fact, the said



M/s.Harrybhai Stud Farm LLP was registered with Mariwari Horse Stud Book Registration Society of India on 04.03.2021 in which the address of the farm is registered as S.No.46/47, Udumalai Road, Pollachi, Tamil Nadu which is the address of the second respondent's stud farm. The second respondent filed a civil suit in O.S.No.225 of 2022 against the petitioner's husband and father seeking injunction from illegally lifting the horses from the second respondent's stud farm during June 2022.

11.The second respondent submitted that the Gomangalam police issued notice for his appearance on 23.06.2022, the petitioner sent his reply claiming that the petitioner has got 40% shares in the profit and loss of M/s.Harrybhai Stud Farm LLP and the Police not to interfere in the civil dispute between the partners, the second respondent filed a writ petition in W.P.No.16473 of 2022 and this Court by order dated 28.06.2022 recording that civil suit had been filed and in civil dispute Police cannot interfere, further on the submission of the learned Additional Public Prosecutor that the Police shall not interfere in disputes, except for any law and order issues, disposed of the writ petition. The petitioner filed a writ petition in



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W.P.No.25025 of 202 as though she gave a representation to the Police on 01.09.2022 to shift the horses from Unjavelapatti farm to the farm at Kerala for the welfare of the horses in which the respondent appeared and took time to file an affidavit along with Veterinary Doctor certificate to prove the conditions of the horses.

12.The second respondent's brother filed a complaint for the forcible removal of the horses by the henchmen engaged by the petitioner and the case in Crime No.265 of 2022 on 02.10.2022 registered by the Pollachi West Police Station for the offence under Section 385 IPC. The second respondent submitted that on 10.10.2022 a Veterinary Surgeon Dr.S.M.Chaklababu certified that the horses were in good condition and free from any infectious disease and vices. The second respondent, his brother and father filed anticipatory bail petitions before the learned Principal Sessions Judge in Crime No.220 of 2022 initiated by the Gomangalam Police on the complaint of the petitioner. In all the proceedings, the second respondent informed the pendency of the civil suit and the civil dispute between them. This being so, for the complaint of the petitioner on



22.11.2022, explanation by the second respondent but not considered and a case in Crime No.28 of 2022 registered on 13.12.2022. The second respondent referring to the photographs in the typed set of papers, argued as to how in high handed manner the respondent police deploying police force and forcibly removing the horses. The horses were removed in a goods carrier without proper vehicle which is a requirement and protocol for transportation of the horses. The second respondent had been properly maintaining the horses with care and concern. The dispute was going on for sometime, the second respondent produced the bank statements, various communications to show the receipt of money, utilization of the same for the stud farm and for maintenance of horses but a false case has been projected as though the second respondent misappropriated and cheated the petitioner. Further, the second respondent recorded sale of horses during the period December 2020 to January 2021 with details, but these details have not considered and projected as though the second respondent not properly maintaining the horses and hence, they were removed. The maintenance of horses are coupled with interest of the second respondent and hence, the horses have to be handed over to the second respondent.



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Challenging the dismissal of the return of property petition in Crl.M.P.No.6683 of 2022 filed a revision petition in Crl.R.C.No.18 of 2023 before the learned III Additional Sessions Judge, Coimbatore. The learned counsel for the second respondent relied upon the decision in the case of ***Bharat Sanchar Nigam Limited vs. Suryanarayanan and another*** reported in ***[2020] 12 SCC 637***, wherein the Apex Court stressed the point that in the disputed ownership of the seized property, the normal rule is restoring the property to the person from whose custody it was taken. In this case, the admitted fact is that on 13.11.2022, the horses were forcibly taken from the second respondent's custody. The claim between the petitioner and the second respondent with regard to the possession and maintenance of the horses is to be relegated to the Civil Court for establishing his claim and title.

13.In this case, the Superintendent of Police, Coimbatore filed a counter and submitted that the second respondent is arrayed as Accused No.1 in Crime No.28 of 2022 for the offence under Sections 403, 406, 420, 120B IPC which is being investigated by DCB, Coimbatore District. He



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would submit that during investigation, it was found that the petitioner Sree Jaya Nair purchased 15 horses in her individual capacity and handed over the horses for maintenance with the second respondent. The petitioner produced invoices showing that all the horses belong to her and the petitioner is the owner of the horses and not M/s.Harrybhai Stud Farm LLP and the second respondent. The second respondent unable to produce any document to show the ownership of the horses. The claim of the second respondent is that the horses belong to Harrybhai Stud Farm LLP is false. There is no document produced to show that M/s.Harrybhai Stud Farm LLP is running in Unjavelampatti, Udumalaipet Taluk. The investigation revealed that the petitioner transferred to the tune of Rs.75 lakhs for maintenance of horses to the second respondent. There are instances of diversion of money and horse feeds were diverted and sold. Two horses Maya and Chaaya sold without consent of the petitioner, the owners who purchased were examined. The horses life were under threat on account of poor maintenance and the second respondent was planning to sell more horses for wrongful gain without the consent of the owner. Hence, to save the case property and restrain the second respondent from committing



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further offence, on 13.12.2022 in the presence of witnesses, 13 horses were seized, mahazar recorded, horses produced before the jurisdictional magistrate and P.R.No.378 of 2022 assigned and thereafter, the horses were entrusted to RM Stud Farm, Pollachi. During seizure of horses, photos were taken showing the actual conditions of horses. The second respondent and his men not allowed the Police to enter into the Stud farm, law and order problem arose in the locality and hence, reinforcement of Armed Reserved Police was sought to enter the farm and to save the livestock. The respondent wantonly created a scene to show that as though Police using excessive force. Keeping the health of the horses in mind and to avoid further sale of horses, the seizure was necessary, the horses were maintained at RM Stud Farm, Pollachi from 15.12.2022 to 08.09.2023. During this period, in RM Stud Farm two horses, namely, Durga and her foal died due to Broncho Interstitial pneumonia and due to Acute Colic indigestion of mud which was informed by RM Stud Farm to the respondent police, thereafter postmortem conducted on 01.09.2023 and 05.09.2023. In view of such circumstances, to maintain the horses in a better condition and considering that the horses are rare Marwari breeds needs special feed,



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separate space, separate stable, adequate feed and ideal weather condition, the horses were shifted to Saru Royal Riders Farm at Sathyamangalam, Erode District on the orders of the learned Judicial Magistrate No.II, Pollachi on 08.09.2023, here to on 22.11.2023 one more horse died due to fibrinous peritonitis and postmortem was conducted on 22.11.2023, filed photographs and postmortem reports produced. During investigation, it was found that the petitioner paid for the maintenance expenses to the RM Stud Farms, Pollachi which is as follows:

Sl.No.	DATE	PAYMENT MODE	AMOUNT RS.
1	30.12.2023	Cash	Rs. 50,300/-
2	30.01.2023	Cash	RS.1,11,600/-
3	15.02.2023	Cash	Rs.1,30,000/-
4	02.03.2023	Cash (S.R.No.294)	Rs.2,60,000/-
5	19.04.2023	Cash (S.R.No.316)	Rs.1,30,000/-
6	01.05.2023	Cash (S.R.No.322)	Rs.1,30,000/-
7	07.06.2023	Cash (S.R.No.346)	Rs.1,30,000/-
8	10.07.2023	Bank Transfer	Rs.1,30,000/-
9	16.08.2023	Cash (S.R.No.372)	Rs.1,30,000/-
10	11.09.2023	Bank Transfer	Rs.1,30,000/-
		Total	Rs.12,01,900/-



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14.Further, the petitioner also paid maintenance expenses to the Saru Royal Riders Farm at Sathyamangalam, which is as follows:

Sl.No.	DATE	PAYMENT MODE	AMOUNT RS.
1	31.10.2023	Bank Transfer	Rs. 61,900/-
2	17.11.2023	Bank Transfer	RS. 61,900/-
Total			Rs.1,22,900/-

15.The month-wise feed, medicine, doctor fees, horses equipment and staff salary paid by the petitioner are as follows:

Sl.No.	MONTH AND YEAR	NAME OF EXPENSE	AMOUNT RS.
1	DECEMBER-2022	Feed	Rs.2,42,800/-
		Horse Equipments [Wood Pulp]	Rs.8,550/-
		Medicine	Rs.4,020/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.35,000/-
2	JANUARY-2023	Feed	Rs.1,85,644/-
		Horse Equipments [Wood Pulp]	Rs.30,200/-
		Medicine	Rs.2,538/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.35,000/-
		Feed	Rs.1,66,000/-



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Sl.No.	MONTH AND YEAR	NAME OF EXPENSE	AMOUNT RS.
3	FEBRUARY-2023	Horse Equipments [Wood Pulp]	Rs.8,000/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.90,000/-
4	MARCH-2023	Feed	Rs.60,000/-
		Horse Equipments [Wood Pulp]	Rs.8,000/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.90,000/-
5	APRIL-2023	Feed	Rs.66,000/-
		Horse Equipments [Wood Pulp]	Rs.8,000/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.90,000/-
6	MAY-2023	Feed	Rs.1,33,540/-
		Horse Equipments [Wood Pulp]	Rs.8,000/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.90,000/-
7	JUNE-2023	Feed	Rs.62,953/-
		Horse Equipments [Wood Pulp]	Rs.26,000/-
		Doctor Fee	Rs.20,000/-
		Staff Salary	Rs.90,000/-
8	JULY-2023	Feed	Rs.66,875/-
		Horse Equipments [Wood Pulp]	Rs.8,000/-
		Doctor Fee	Rs.10,199/-
		Staff Salary	Rs.1,04,000/-



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Sl.No.	MONTH AND YEAR	NAME OF EXPENSE	AMOUNT RS.
9	AUGUST-2023	Feed	Rs.78,535/-
		Horse Equipments [Wood Pulp]	Rs.6,000/-
		Staff Salary	Rs.1,04,000/-
10	SEPTEMBER-2023	Feed	Rs.1,78,400/-
		Horse Equipments [Wood Pulp]	Rs.5,075/-
		Doctor Fee	Rs.10,000/-
		Staff Salary	Rs.1,04,000/-
11	OCTOBER-2023	Feed	Rs.1,78,400/-
		Staff Salary	Rs.1,04,000/-
12	NOVEMBER-2023	Feed	Rs.1,00,560/-
		Doctor Fee	Rs.10,000/-
		Staff Salary	Rs.1,04,000/-
13	DECEMBER-2023	Feed	Rs.74,500/-

Thus the petitioner/defacto complainant till now paid around Rs.42,50,289/-.

16.Though the second respondent claims that he is sensitive for the welfare and well being of the horses had not taken any steps in this regard despite the horses were in the neutral stud farm. The horse Chaya was seized from Richard who purchased from the second respondent and the



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same was produced before the Magistrate Court and P.R.No.122 of 2023 assigned and now charge sheet filed in C.C.No.511 of 2023 before the learned Judicial Magistrate No.II, Pollachi, summons were served to the second respondent and other accused and the case is posted on 14.03.2023 for questioning. The investigation revealed that the petitioner is the owner of the horses and the second respondent has no right over the horses. M/s.Harrybhai Stud Farm LLP has nothing to do with the horses involved in this case. The second respondent makes a claim that he is the partner of M/s.Harrybhai Stud Farm LLP and having right over the horses, now he is removed from partnership. The second respondent without any right of ownership makes a claim and further requested that considering the rare breed of horses, health and well being, appropriate orders to be passed.

17.Considering the submissions made and on perusal of the materials, it is seen that the second respondent does not deny the ownership of horses of the petitioner. The second respondent makes a claim that he had been made as a partner of M/s.Harrybhai Stud Farm LLP and the horses were maintained by M/s.Harrybhai Stud Farm LLP for which he had incurred



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expenses and accounts were properly maintained. The petitioner made payments to the second respondent and had transferred funds which is not denied but the second respondent has his own explanation for the money received and spent and in incurring expenses. It is seen that the second respondent had been made as a partner for a short period and thereafter, he has got nothing to do with M/s.Harrybhai Stud Farm LLP. The second respondent's right of claiming for the expenses incurred with the stud farm or with the petitioner is a separate issue and retention of horses is not an answer. The second respondent is at liberty to to claim his expenses. It is seen that there have been claim and counter claim with regard to the money sent, spent and to be paid, but by no stretch of imagination, this dispute can give a right for detention of horses by the second respondent in any manner. It is also to be seen that in this case, investigation completed, charge sheet filed and the case is under trial. As discussed above, there have been writ petitions, contempt petitions, civil suit, criminal revision petition which are pending and disposed of. The pendency or disposal of these cases has nothing to do with Crime No.28 of 2022 which now culminated into C.C.No.511 of 2023. Further, the decision referred by the second



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respondent is a case wherein trial has been completed and order passed under Section 452 Cr.P.C. In this case, the impugned order is passed under Section 451 r/w. 457 Cr.P.C. and hence, the decision referred by the second respondent would not be applicable to the facts and circumstances of the case. The ownership of the horses is never been under question and the ownership is with the petitioner. Hence, the petitioner would be the person to have the custody of the horses to take care of the horses for rearing, well being and maintenance. It is also seen that despite the horses were in the custody of RM Stud Farm, Pollachi and Saru Royal Riders Farm, Sathyamangalam, the petitioner was paying for its maintenance. In view of the same, all the horses in this case to be handed over to the possession of the petitioner by taking a bond and undertaking to produce the horses as and when if required during trial, photographs with description of horses to be taken and produce along with 65B Certificate and marked in evidence during trial. The petitioner to execute a bond for a sum of Rs.5,00,000/- [Rupees Five Lakhs only] with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Pollachi. The second respondent's right of claiming expenses, damages are to be decided in the appropriate forum



Crl.R.C.No.380 of 2023

but not in a criminal case. Further, the observations herein are made only for the limited purpose of disposal of this case.

17. Accordingly, the Criminal Revision Case is allowed.

Consequently, connected miscellaneous petition is closed.

08.04.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

cse

To

1. The Inspector of Police,
District Crime Branch,
Coimbatore.
2. The Judicial Magistrate No.II,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.



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CrI.R.C.No.380 of 2023

M.NIRMAL KUMAR, J.

cse

Pre-delivery order made in

CrI.R.C.No.380 of 2023

08.04.2024