



Crl.R.C.No.2043 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2043 of 2023

Shahin

... Petitioner

Vs.

The State rep. By
The Sub-Inspector of Police,
Annamalai Police Station,
Coimbatore District.
[Crime No.326 of 2023].

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.5021 of 2023 dated 07.10.2023 on the file of the Judicial Magistrate No.I, Pollachi and set aside the same and subsequently grant interim custody of vehicle namely Mahindra & Mahindra Bolero B6 Motor Car bearing registration No.KL-09-AV-4511.

For Petitioner : Mr.K.Sudhakar

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



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Crl.R.C.No.2043 of 2023

ORDER

The petitioner is the owner of the vehicle viz., Mahindra & Mahindra Bolero B6 Motor Car bearing registration No.KL-09-AV-4511, has filed a petition under Section 451 & 457 of Cr.P.C., in Crl.M.P.No.5021 of 2023 before the learned Judicial Magistrate No.I, Pollachi. The learned Magistrate *vide* order, dated 07.10.2023 dismissed the said petition, against which, the present Criminal Revision Case is filed.

2.The contention of the petitioner is that the petitioner's vehicle viz., Mahindra & Mahindra Bolero B6 Motor Car bearing registration No.KL-09-AV-4511 was seized by the respondent police based on the confession statement of the co-accused. He would submit that the complaint is that on 16.07.2023 the defacto complainant along with Mohamed Ali was asked to come near Sakthi Hotel, Pollachi, at that time, one Mahindra & Mahindra Bolero B6 Motor Car bearing registration No.KL-09-AV-4511 driven by the petitioner will come there along with four bouncers, they were asked not to talk with anybody, receive the amount and leave the place. But the defacto



complainant is waiting for the car from 4.30 p.m. to 9.00 p.m., the vehicle had not come there and later, they came to know that they have been cheated. According to them, the vehicle was used by the accused Shahin and nothing more. He further submitted that the vehicle is kept in open space exposing to vagaries of weather, further detention would make the vehicle unusable, rusted and it would become a scrap. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle. Hence, he prays for return of property.

3.The learned Additional Public Prosecutor filed his counter and submitted that on 20.07.2023 the defacto complainant lodged a complaint stating that he is doing real estate business and arrange finance to the house sites. The defacto complainant had acquaintance with A4 and A5 in this case as well as several others and they were discussed to exchange 2000 denomination notes on 15% commission. As per the instructions, the defacto complainant collected a sum of Rs.29,50,000/- from Mohamed Ali of Dharmapuri and Karuppasamy. On 16.07.2023, as per the instruction of A4, the defacot complainant came to Palakkad Balanna Hospital, again went



to Koduvaiyur where A4 introduced A2 and two others to the defacto complainant. Subsequently, A2 and other accused persons went to Picnic Hotel by car and two wheeler along with the defacto complainant with cash and when the defacto complainant and the said Mohamed Ali were inside the Hotel, A2, A4 and other accused persons escaped from the place along with the cash. Thereafter, A4 informed the defacto complainant that the Police persons followed them, hence he will come to Sakthi Hotel, Pollachi and the cash will be sent through A1/the petitioner herein in a car bearing registration No.KL-09-AV-4511. Based on that, the defacto complainant came there and waited till evening but no one came there. On coming to know that he was cheated by the accused persons, the defacto complainant lodged a complaint, based on which, a case in Crime No.326 of 2023 for the offence under Section 420 IPC registered. The Inspector of Police took up the investigation, visited the scene of occurrence, prepared observation mahazar and rough sketch. During the course of investigation, A1 to A5 were arrested, their confession statement recorded and the case properties including the vehicle of the petitioner was seized and produced before the learned Judicial Magistrate No.I, Pollachi. He further submitted that apart



from this case, the petitioner is involved in several other cases. Hence, he prayed for dismissal of this petition.

4.Considering the submissions and on perusal of the materials, it is not in dispute that the petitioner is the owner of the Bolero car which was seized from the petitioner in the above case. It is not in dispute that the petitioner was not found in the scene of occurrence and even in the complaint, it is stated so.

5.It is seen that from the date of recovery, the vehicle is kept in open yard exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished. The Hon'ble Apex Court in the case of “***Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290***”, had given guidelines in the cases of return of property to the owner.

6.In view of the above, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., Mahindra & Mahindra Bolero B6 Motor Car bearing



Crl.R.C.No.2043 of 2023

registration No.KL-09-AV-4511 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):

(i)The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Pollachi. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(ii)The petitioner shall not alter or alienate the vehicle in question till the completion of trial.

(iii)The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(iv)The petitioner shall submit a self attested photostat copy of R.C.Book before the learned Judicial Magistrate No.I, Pollachi.

(v) The petitioner shall produce the vehicle as and when directed to do so.



Crl.R.C.No.2043 of 2023

7. Accordingly, the Criminal Revision Petition stands allowed and the impugned order dated 07.10.2023 passed by the learned Judicial Magistrate No.I, Pollachi in Crl.M.P.No.5021 of 2023 is set aside.

14.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

1. The Sub-Inspector of Police,
Annamalai Police Station,
Coimbatore District.
2. The Judicial Magistrate No.I,
Pollachi.
3. The Public Prosecutor,
High Court, Madras.



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CrI.R.C.No.2043 of 2023

M.NIRMAL KUMAR, J.

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14.03.2024