



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.11.2023

Pronounced on : 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.R.C(MD)No.1254 of 2023

Kannan

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Srivilliputtur Town Police Station,
Virudhunagar District.
(Crime No.424 of 2022)

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.6824 of 2023 in C.C.No.255 of 2023 on the file of the Judicial Magistrate No.II, Srivilliputtur, dated 31.07.2023 and set aside the same and issue direction to hand over the Tractor bearing Registration No.TN-69-W-0689 (Engine No.SBB3098, Chassis No.SBB3098) to the petitioner within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Karunanithi

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate (CrI.side)



ORDER

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This Criminal Revision Case is filed to set aside the order dated 31.07.2023 made in CrI.M.P.No.6824 of 2023 in C.C.No.255 of 2023 on the file of the learned Judicial Magistrate No.II, Srivilliputtur and to issue direction to hand over the tractor bearing Registration No.TN 69 W 0689 (Engine No.SBB3098, Chassis No.SBB3098) to the petitioner, which was seized by the respondent in Cr.No.424 of 2022.

2.The brief facts of the case:

The revision petitioner is arrayed as accused in this case. The defacto complainant lodged a complaint that he was working as driver in Sri Saravana Construction Company. On 22.09.2022, he took the tractor bearing Registration No.TN 67 M 7913 along with trailer bearing Registration No. TN 67 M 7914 for work and after completing work he parked the tractor and trailer separately near Thiruparkadal Kulam near Rajapalayam main road. The next day the trailer was found missing. After intimating his office, on direction he lodged a complaint on 07.10.2022 and on that basis F.I.R. in Crime No.424 of 2022 was registered by the respondent police. After investigation, the petitioner was arrested and the petitioner's tractor TN 69 W 0689 and the defacto complainant's stolen property (i.e) trailer TN 69 M 7914 were seized and



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remanded to judicial custody. The petitioner filed the petition in Crl.M.P.No.6824 of 2023 before the learned Judicial Magistrate No.2, Srivilliputhur. This petition was resisted by the respondent police. After hearing both, the said petition was dismissed on 31.07.2023 on the ground that the petitioner is not the owner of the vehicle. Being aggrieved by the said order, the petitioner preferred this Criminal Revision Case.

3. Heard both side and perused the records in this Criminal Revision Case.

4. The learned counsel appearing for the revision petitioner has submitted that the petitioner purchased the tractor TN 69 W 0689 from its previous owner Perumal for a sum of Rs.1,25,000/- and executed a sale agreement on 15.05.2021 and took delivery of the vehicle on the same day. Though vehicle R.C.Book stands in the name of Perumal, at present the petitioner who is the owner of the vehicle. The petitioner's vehicle was kept ideal in open place from the date of seizure and the vehicle will get ruined by sunlight and rain and it would lose its value. The petitioner has used the tractor for agriculture purpose and he did not commit any offence as alleged by the prosecution. The petitioner's livelihood solely



depends on the tractor. He is ready to abide by any conditions imposed by this Court. In support of his arguments, he relied on the order passed by this Court in Crl.O.P.No.20080 of 2022, dated 29.08.2022.

5. The learned Government Advocate (Crl.side) for the respondent submitted that the petitioner along with co-accused committed theft of trailer of the defacto complainant. The petitioner is not the owner of the vehicle. As per R.C.Book, one Perumal is the owner of the vehicle. After completion of investigation charge sheet was filed and taken on cognizance as C.C.No.255 of 2023. If the vehicle is released the petitioner would continue the offence in similar nature. Therefore, he strongly opposed to allow this petition.

6. On hearing both it is clear that the petitioner is Accused No.1 in this case for the alleged offence that he along with co-accused committed theft of trailer TN 67 M 7914. The petitioner says the stolen property TN 67 M 7914 was returned to the defacto complainant, which was not disputed by the respondent police. The only ground raised is that the petitioner is not the owner of the vehicle. The petitioner firmly submitted that he purchased the tractor TN 69 W 0689 from its original owner Perumal and to substantiate the same he produced copy of sale



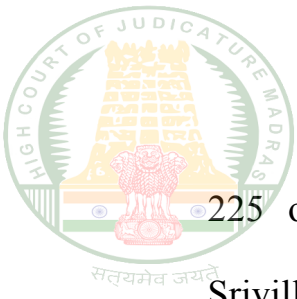
agreement, through which he took delivery of tractor on 15.05.2021.

There is no dispute regarding the sale agreement. Moreover, the tractor TN 69 W 0689 was seized by the respondent police and the same was remanded before the learned Judicial Magistrate under RPR.No. 334/2022. The petitioner alleged that his vehicle is in open place without any protection and thereby his vehicle would get ruined by sun and rain and hence, sought for interim custody of the vehicle. The Hon'ble Supreme Court issued guidelines in the case of **Sunderbhai Ambalal Desai reported in 2003 (1) CTC 175**. On perusal of records, the petitioner has already filed the petition before the trial Court and the same was dismissed on the ground that the petitioner is not owner of the vehicle. On perusal of order produced by the petitioner's side, the learned Single Judge of this Court passed order directing the Sessions Court to consider the petition under Section 451 of Cr.P.C. based on TO Form, though transfer of ownership is not done, based on direction the Sessions Court passed order. On perusal of the same, I concur the order of the learned Single Judge. In the above circumstances, this criminal revision is to be allowed.

7. In the result, the Criminal Revision Case is allowed and the order dated 31.07.2023 passed in Crl.M.P.No.6824 of 2023 in C.C.No.



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225 of 2023 on the file of the learned Judicial Magistrate No.2,

Srivilliputtur is set aside. The vehicle in question in this case i.e. Tractor bearing registration No.TN 69 W 0689 is ordered to be returned to the petitioner on interim custody subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Srivilliputtur;

(ii) The petitioner shall transfer the ownership of the tractor bearing Registration No.TN 69 W 0689 in his name within two months from the date of receipt of a copy of this order and deposit the original R.C.Book of the tractor before the learned Judicial Magistrate No.II, Srivilliputtur without fail;

(iii) The petitioner shall file an affidavit with specific undertaking that the petitioner shall not involve in any illegal activities or any other offence and vehicle also will not be used in any illegal activity or any other offence;

(iv) The vehicle shall be photographed in the presence of the Head Clerk of the Judicial Magistrate Court No.II, Srivilliputtur at the cost of the petitioner and the petitioner's signature to be obtained in the backside of



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photographs and the said photographs & CD shall be kept in the case bundle and Panchanama shall be prepared;

(v) The petitioner shall produce the vehicle in question before the trial Court on first working day of every month at 10.30 a.m. until further orders;

(vi) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case;

(vii) The petitioner shall co-operate with the trial Court for disposal of the case.

01.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Judicial Magistrate No.II,
Srivilliputtur.
- 2.The Inspector of Police,
Srivilliputtur Town Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1254 of 2023

01.03.2024