

R. Ramesh Vs. State represented by The Inspector of Police, Dindigul District

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Court : Chennai Madurai

Decided On : Jun-07-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : C.R.L.RC(MD) No. 331 of 2016

Appellant : R. Ramesh

Respondent : State represented by The Inspector of Police, Dindigul District

Judgement :

(Prayer: Criminal Revision Petition is filed, under Section 397(1) r/w 401 Cr.P.C., to call for the records in Cr.M.P.No.1104 of 2016, on the file of the learned Judicial Magistrate, Nilakottai, Dindigul District and set aside the order, dated 20.04.2016 and handover the custody of vehicle viz., Lorry (Bharath Benz/Multi Axle Goods Vehicle) bearing Registration No.TN88 B1194 remanded in R.P.R.No.32 of 2016, which has been seized by the respondent herein in Crime No.94 of 2016.)

1. This matter is squarely covered by the Apex Court's Judgment in *Sunderbhai Ambalal Desai v. State of Gujarat* [2003 (1) CTC 175 (SC)].

2. The property in a criminal case will arise in three different circumstances. One is the property with respect to which an offence has been committed, namely, chain snatching case. Other one is the property, which has been used in the commission

of offence, for instance vehicle used by the assailants to commit murder and the other one is perishable items. If they have any relevance in the case, they have to be exhibited. But, perishables have to be disposed of immediately.

3. In *Sunderbhai Ambalal Desai (supra)*, it has been brought to the notice of the Court that in Police Stations and in Courthouses, several case properties were kept idle. Ultimately, they became useless and they may also be used for some unlawful and unauthorized purposes. So, the Hon'ble Apex Court directed the Criminal Courts to dispose of the case properties laying down certain guidelines and it has also held that property return petitions should be disposed of within a prescribed period.

4. It is pertinent to note that murder case or any other sessions case may not be tried by the Magistrate. But, the case property involved in such cases can be dealt with by the Magistrate under Sections 451, 457 Cr.P.C. Further, in *Sunderbhai Ambalal Desai (supra)*, it is not stated that the Magistrate should not return the case property when investigation is pending.

5. So, in this case, the Magistrate taken into account certain irrelevant factors in dismissing the property return petition. The order of the Magistrate suffers from legality.

6. Ordered as under:

i. This criminal revision is allowed.

ii. The Order, dated 20.04.2016, passed in Cr.M.P.No.1104 of 2016, by the learned Judicial Magistrate, Nilakottai, is set aside.

iii. The learned Magistrate, will give interim custody of the Lorry (Bharath Benz/Multi Axle Goods Vehicle) bearing Registration No.TN88 B1194 remanded in R.P.R.No.32 of 2016 to the revision petitioner.

iv. The revision petitioner will execute a personal bond for Rs.35,00,000/- (Rupees thirty five lakhs only) to the satisfaction of the said Magistrate.

- v. A photograph of the said Lorry with the signature of the revision petitioner shall be kept in the case records.
- vi. Until final property order is passed by the Court, the revision petitioner shall not dispose of, alter or change the vehicle.
- vii. The revision petitioner shall produce the vehicle as and when so ordered by the Court.

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