

Raja Vs. State, Rep. by its The Sub-Inspector of Police, Pudukottai

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Court : Chennai Madurai

Decided On : Jun-01-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : C.R.L.RC(MD) No. 95 of 2016

Appellant : Raja

Respondent : State, Rep. by its The Sub-Inspector of Police, Pudukottai

Judgement :

(PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order passed by Learned District Munsif-cum-Learned Judicial Magistrate, Thirumayam, in Cr.M.P.No.5370 of 2015, dated 14.12.2015 and set aside the same and direct the Learned Judicial Magistrate to give interim custody of the Hero Honda Splendor Plus bearing registration No.TN-55-AFS-2442.)

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 revision petitioner herein is A2 in this case. He is stated to have driven Hero Honda Splendor Plus (TN55 AFS2442) in Ponnamaravathi area to hunt Peacocks. The victim is a Peacock. The respondent Police registered a case in Crime No.97 of 2014. Seized the said two-wheeler. Produced it before the learned Judicial Magistrate, Thirumayam.

3. In the said Court, the revision petitioner filed CrI.M.P.No.5370 of 2015 for interim custody of the said vehicle under Section 451 Cr.P.C. It was opposed to by the prosecution.

4. The learned Magistrate, by his Order dated 14.12.2015, dismissed the petition on the ground that the vehicle has been used in the commission of the offence; if the vehicle is given, again he will kill Peacocks and he will also abscond.

5. The said Order is being challenged by A2.

6. The learned counsel for the revision petitioner quoted the case law, which has been stated at the outset.

7. The learned Government Advocate (Criminal Side) submitted that the pitiable plight of the Peacock cannot be lost sight of. In the circumstances, the learned Magistrate has passed the impugned order.

8. I have anxiously considered the rival submissions.

9. The reasons stated in the impugned order are patently wrong. They are unsustainable in law. The ratio in *Sunderbhai Ambalal Desai* (supra) squarely applies to this case.

10. In the circumstances, ordered as under:

i. The criminal revision is allowed.

ii. The Order, dated 14.12.2015, passed in Cr.M.P.No.5370 of 2015, by the learned Judicial Magistrate, Thirumayam, is set aside.

iii. The learned Judicial Magistrate, Thirumayam, will give interim custody of the Hero Honda Splendor Plus (TN55 AFS2442) to the revision petitioner.

iv. The revision petitioner will execute a personal bond for Rs.45,000/- (Rupees forty five thousand only) to the satisfaction of the said Magistrate.

v. A photograph of the said vehicle with the signature of the revision petitioner shall be kept in the case records.

vi. Until final order is passed by the said Magistrate, the revision petitioner shall not dispose of, alter or change the vehicle.

vii. The revision petitioner shall cause the production of vehicle as and when so ordered by the said Magistrate.

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