

J. Jayakumar Vs. State rep. by the Inspector of Police, Chennai

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Court : Chennai

Decided On : Apr-18-2016

Judge : M. Venugopal

Appeal No. : Criminal Revision Case No. 637 of 2016

Appellant : J. Jayakumar

Respondent : State rep. by the Inspector of Police, Chennai

Judgement :

(Prayer: Revision filed under Sections 397 (3) and 401 of the Code of Criminal Procedure to set aside the order passed by the V Metropolitan Magistrate, Egmore, Allikulam, Chennai in CrI.M.P.No.411 of 2016 dated 2/3/2016 and set aside the conditional order in respect of execution of surety.)

1. The Petitioner/Accused has projected the present Criminal Revision Petition before this Court, as against the order, dated 2/3/2016, passed by the learned V Metropolitan Magistrate, Egmore.

2. The learned V Metropolitan Magistrate, Egmore, while passing an order, on 2/3/2016, in CrI.M.P.No.411 of 2016, filed by the Petitioner/Accused, at paragraph 3, had observed the following:-

Admittedly, in this case, the case property is lying in the Police Station premises. Considering the facts and circumstances of the case, this Court views, it is of no

use to keep the case property in the police station premises for a long period. Further for prolonged detention, the condition of the case property is likely to be deteriorated day to day and thereby the cost of the case property will be affected. Hence it is ordered that the case property (Hero Honda Splender Pro TN-03M-3738), be handed over to the petitioner (towards interim custody on the following conditions:-

1. The petitioner shall execute a bond for a sum of Rs. 30,000/- with 2 sureties each for the like sum. The sureties shall be a owner of movable or immovable property worth more than Rs. 30,000/- and they shall furnish necessary documents.
2. The petitioner shall produce original RC book before this Court.
3. The petitioner shall take photographs of case property and counter signs photograph and produce the same before the Court.
4. The petitioner has to keep the case property as it is and he is not to sell or encumber or alter the nature of the case property and keep the case property in good condition.
5. The petitioner shall produce the case property before this Court, as and when required by this Court.
6. It is ordered to report this order to concerned Motor Vehicle Registering Authority.

and resultantly, allowed the petition.

3. The real grievance of the Revision Petitioner/Accused is that the trial Court had failed to appreciate the fact that the Motor Cycle of the Petitioner/Accused would not fetch more than Rs. 15,000/- and the condition imposed upon the petitioner to execute a bond for a sum of Rs. 30,000/- with two sureties each for a likesum, is an incorrect one.

4. At this stage, this Court has perused the contents of the affidavit filed by the Petitioner/Accused in CrI.M.P.No.411 of 2016, before the trial Court. In fact, there

is no whisper in Crl.M.P.No.411 of 2016 about the value of the Vehicle, viz., Hero Honda Splendor, that it would not fetch more than Rs. 15,000/-. Only in the 'Memorandum of Grounds of Revision', for the first time, the Petitioner has taken a plea that executing a bond for a sum of Rs. 30,000/- being the first condition imposed by the trial Court in the impugned order is a burdensome one besides the same being a harsh one.

5. In view of the fact that the Petitioner/Accused is primarily agreed against the imposition of condition No.1, in the impugned order by the trial Court, viz., that the petitioner shall execute a bond for a sum of Rs. 30,000/- with two sureties each for a like sum. , this Court without delving deep into the merits of the matter and also not expressing any opinion in the subject matter in issue by disposing of the present Criminal Revision Petition in directing the Petitioner/Accused, to approach the trial Court and to file a necessary Petition seeking modification of the condition imposed in Crl.M.P.No.411 of 2016, dated 2/3/2016 and to seek redressal of his grievance, in the manner known to law and in accordance with law. Liberty is granted to the petitioner to file necessary Petition/Application for modification of the condition imposed in Crl.M.P.No.411 of 2016, dated 2/3/2016, within a period of one week, from the date of receipt of a copy of this order. It is open to the petitioner to raise all factual and legal pleas before the trial Court at a time when the modification petition is taken up for hearing and disposal.

6. With the above direction, this Criminal Revision Case is disposed of.

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