

Chinnagurusamy Alias Kutti Vs. The State Represented by Its

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Court : Chennai

Decided On : Feb-02-2015

Judge : M.Sathyanarayanan

Appellant : Chinnagurusamy Alias Kutti

Respondent : The State Represented by Its

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED :

02. 02.2015 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN Criminal Revision Case (MD)No.525 of 2014 Chinnagurusamy alias Kutti ... Petitioner Vs. The State represented by its Inspector of Police, Karivalamvanthanallur Police Station. ... Respondent Prayer : Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records relating to the impugned order passed in CrI.M.P.No.6845 of 2014 on the file of the Judicial Magistrate, Sankarankovil, dated 27.10.2014 and set aside the same and consequently, direct the respondent police to release the petitioner's vehicle namely TRACTOR No.TN-76-Y-6215 with TRAILOR No.TN-76-Y-0321 within the time frame as may be fixed by this Court. !For Petitioner : Mr.V.Muthuvelan ^For Respondent : Mrs.S.Prabha, Govt. Advocate (Crl.Side) :

ORDER

The petitioner claims to be the owner of the ESCORTS Tractor bearing Registration No.TN-76-Y-6215 [Chasis No.B-3059291 & Engine No.E3064452]. and also the Tractor bearing Registration No.TN-76-Y-0321.

2. The petitioner is arrayed as accused in Cr.No.245 of 2014 registered by the respondent on 06.09.2014 for the alleged commission of the offences under Sections 353, 307, 379 I.P.C. read with Section 3 of the TNPPDL Act and both the Tractor and the Tractor were seized on the ground that it was used for transporting the illegally mined river sand. The petitioner filed Cr.M.P.No.6845 of 2014 under Section 451 Cr.P.C., praying for return of the vehicle, contending among other things that the Tractor has been hypothecated in favour of Shriram Transport Finance Company Limited, 27/5, Ettayapuram Road, Kovilpatti - 628 501 and he has purchased the Tractor from one Murugaiah and he has also produced the sale agreement and if both the Tractor and the Tractor are left vagaries and they may be returned to him and he is willing to abide by any condition imposed in that regard.

3. The prosecution has filed the counter opposing the said application stating among other things that if the vehicle is returned, the petitioner will not produce the same and there is also a likelihood of alienating the same.

4. The lower Court, taking into consideration the claim of the petitioner and the stand taken by the respondent, found that in the absence of any document that the Tractor has been hypothecated in favour of Shriram Transport Finance Company Limited and the petitioner has purchased the Tractor from one Murugaiah, the return of vehicle cannot be granted and citing the said reasons, dismissed the petition, vide order dated 27.10.2014. Challenging the same, the present Criminal Revision Case is filed.

5. The learned Counsel for the petitioner has drawn the attention of this Court to page No.7 of the typed set of papers and would submit that now, the Tractor has been transferred to his name and to evidence that the Tractor has been hypothecated in favour of Shriram Transport Finance Company Limited, he has further drawn the attention of this Court to the xerox copy of the Registration Certificate wherein the name of Shriram Transport Finance Company Limited has

been mentioned as the person who advanced the finance and the Authorised Signatory has also given a Certificate that the vehicle in question is under hypothecation and they have no objection for releasing the vehicle in favour of the petitioner and hence, prays for setting aside the impugned order and for return of the vehicle by way of interim custody.

6. Per contra, Mrs.S.Prabha, learned Government Advocate (Criminal Side) for the respondent strongly opposed this revision by contending that the alleged letter signed by the Authorised Signatory does not even contain the date and the name of the Authorised Signatory and therefore, the trial Court was right in dismissing the petition and prays for dismissal of this revision.

7. This Court, after considering the rival submissions and upon perusal of the typed set of papers, is of the view that this Criminal Revision Case is to be allowed and the vehicles in question are to be returned to the petitioner subject to certain conditions.

8. Even in the Registration Certificate pertaining to the Tractor bearing Registration No.TN-76-Y-6215 [Chasis No.B-3059291 & Engine No.E3064452], the name of Shriram Transport Finance Company Limited finds a place as the institution who advanced the loan for purchasing the said vehicle. The said fact has also been confirmed by the Authorised Signatory.

9. No doubt, the name of the Authorised Signatory as well as date on which it was issued, have not been found place in the said letter, but, in the light of the entries available in the Registration Certificate, there cannot be any doubt as to the ownership of the vehicle and the petitioner also got transferred the ownership of the Tractor in his name and hence, there cannot be any impediment in ordering the return of the vehicles by way of interim custody.

10. In the result, this Criminal Revision Case is allowed and the impugned order passed in CrI.M.P.No.6845 of 2014 on the file of the Judicial Magistrate, Sankarankovil, dated 27.10.2014, is set aside and the ESCORTS Tractor bearing Registration No.TN-76-Y-6215 [Chasis No.B-3059291 & Engine No.E3064452], and also the Tractor bearing Registration No.TN-76-Y-0321, are ordered to be

returned to the petitioner by way of interim custody, subject to the following conditions: (i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Sankarankovil, on or before 09.03.2015 for return of Tractor; (ii) The petitioner shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Sankarankovil, on or before 09.03.2015 for return of Tractor; (iii) The petitioner shall not further encumber or alter the physical features or alienate both the vehicles; (iv) The petitioner shall produce both the vehicles before the first respondent on the first working day of every English Calendar month at 11.00 a.m. till the completion of the investigation; and (v) If the petitioner fails to comply with anyone of the above conditions, this Case shall stand automatically dismissed without any further reference to this Court. Index :Yes/No 02.02.2015 Internet :Yes/No rsb To 1.The Inspector of Police, Karivalamvanthanallur Police Station. 2.The Court of Judicial Magistrate, Sankarankoil. 3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai. M.SATHYANARAYANAN,J.

rsb Criminal Revision Case (MD)No.525 of 2014 02.02.2015

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