

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No(s). 164-165 OF 2019
(Arising out of SLP (CRL.) No(s).9860-9861 of 2018)

C. SHANMUGAVEL

Appellant(s)

VERSUS

ESWARI & ANR.

Respondent(s)

O R D E R

(1) Leave granted.

(2) The appellant who is brother-in-law of the deceased-Nachiappan being aggrieved by the order passed by the High Court of Madras at Madurai Bench in Cr1.R.C. (MD)No.508 of 2018 and Cr1.M.P.(MD) No.6978 of 2018 has preferred these appeals.

(3) The first respondent-Eswari is none other than the wife of the deceased-Nachiappan. Nachiappan was operating a vehicle 407 Max Cab four wheeler bearing the registration No.TN 59 BJ 9491. Nachiappan was murdered on 27th September, 2017 regarding which a case, Cr.No.202/17 of Kundrakudi P.S. was registered under Sections 302, 364 and 379 I.P.C.

(4) The said vehicle was seized as the case property. Initially the appellant has filed an application seeking custody of the said vehicle and later on the first respondent has also filed the application seeking interim custody of the said vehicle in her capacity as widow of the registered owner

of the vehicle, namely, Nachiappan. Before the Judicial Magistrate, Karaikudi, on 7th November, 2017 the first respondent has given 'No Objection' for handing over the said vehicle to the appellant herein who is brother of the deceased-Nachiappan and accordingly custody of the said vehicle was handed over to the appellant.

(5) Subsequently, the first respondent withdrew her consent and filed an application seeking custody of the said vehicle for herself which application came to be allowed. On 11th July, 2018 the Judicial Magistrate, Karaikudi, passed an order by which the said vehicle was recovered from the appellant and kept in custody of the Court till the disposal of the criminal case. In the meantime, the appellant herein has filed the revision before the High Court pointing out that there is a dispute regarding the ownership of the said vehicle which was dismissed by the High Court on 3rd September, 2018.

(6) It is stated that after dismissal of the revision on 17th September, 2018 the Judicial Magistrate, Karaikudi, has passed an order to hand over the said vehicle to the first respondent.

(7) When the special leave petition came up for hearing on 26th November, 2018, this Court has issued notice and also directed the appellant to deposit Rs.5,00,000/ (Rupees Five Lakhs) before the Judicial Magistrate, Karaikudi. In compliance of the said order, the appellant has deposited an amount of Rs.5,00,000/- (Rupees Five Lakhs)

(8) Mr. V. Balaji, learned counsel appearing for the first respondent, has submitted that after the impugned order of the High Court i.e. 3rd September, 2018, Judicial Magistrate, Karikudi, has passed order dated 17th September, 2018 to hand over the said vehicle to the first respondent copy of which has been filed today before us. It was submitted at the Bar that in view of the notice issued by this Court on 26th November, 2018, the Judicial Magistrate on 24th December, 2018 has initiated the proceedings to seize the custody of the said vehicle from the first respondent and to restore the vehicle back to the court custody. It is stated that in compliance with the order of the Judicial Magistrate, 407 Max Cab four wheeler bearing the registration No.TN 59 BJ 9491 has been seized from the possession of the first respondent on the very next date i.e. 25th December, 2018 and the said vehicle is now in court custody.

(9) It is pertinent to note that though these appeals by way of special leave petitions were filed on 2nd November, 2018, the appellant has not brought to the notice of this Court subsequent developments that the Judicial Magistrate, Karaikudi, has passed an order on 17th September, 2018 by which the said vehicle has already been handed over to the first respondent. Learned Judicial Magistrate was right in ordering the return of the vehicle to the first respondent being wife of the deceased Nachiappan.

(10) In such view of the matter, these appeals are dismissed with the following directions and observations:

(i) The Principal District Munsif-cum-Judicial Magistrate, Karaikudi is directed to ensure restoration of the custody of the vehicle 407 Max Cab four wheeler bearing the registration No.TN 59 BJ 9491 to the first respondent-Eswari w/o Late Nachiappan forthwith;

(ii) The Amount of Rs.5,00,000/- (Rupees Five Lakhs) deposited by the appellant before the Principal District Munsif-cum-Judicial Magistrate, Karaikudi, be refunded to the appellant.

.....J.
(R. BANUMATHI)

.....J.
(R. SUBHASH REDDY)

NEW DELHI,
JANUARY 28, 2019.