



Crl.O.P.(MD).No.23402 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.23402 of 2023

John Bens Dhas

... Petitioner/Petitioner

Vs.

**The Inspector of Police,
Karunkal Police Station,
Kanyakumari District.
(Crime No.197 of 2023)**

... Respondent/Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the return docket order dated 28.11.2023 on the file of the learned Judicial Magistrate, Eraniel and consequently, direct the learned Judicial Magistrate, Eraniel, to accept the memo filed by the petitioner, dated 21.11.2023 in obedience to the order in Crl.M.P.No.4871 of 2023 dated 20.09.2023 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil.

For Petitioners : Mr.SC.Herold Singh

**For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor**



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ORDER

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This petition has been filed to set aside the return docket order dated 28.11.2023 on the file of the learned Judicial Magistrate, Eraniel and consequently, direct the learned Judicial Magistrate, Eraniel, to accept the memo filed by the petitioner, dated 21.11.2023 in obedience to the order passed by learned Principal Sessions Judge, Kanyakumari District at Nagercoil in Crl.M.P.No.4871 of 2023, dated 20.09.202.

2.The petitioner is facing the charge under Section 379 of IPC before the learned Principal Sessions Judge, Kanyakumari District at Nagercoil. He moved an application in Crl.MP.No.4871 of 2023 before the learned Principal Sessions Judge, Kanyakumari District at Nagercoil, under Section 451 of Cr.P.C., seeking release of vehicle. On 20.09.2023, that application was allowed with certain conditions. Thereafter, on 21.11.2023, he made an application before the concerned Court seeking release of vehicle as per the order passed in Crl.MP.No.4871 of 2023 dated 20.09.2023. But, it was returned stating that the serial number (Chasis No.) is not match with the original tax invoice and also directed the petitioner to submit proper invoice within one month. Hence, he



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obtained a certificate from the issuing Authority of the Hyundai Company to prove the serial number (Chasis No.) and the tax invoice numbers are one and the same. On 28.11.2023, the petitioner submitted the said certificate before the Court and the same was returned stating that the said certificate issued by the company is contrary to the procedure of registration.

3. It is seen that the above said Crl.MP.No.4871 of 2023 was allowed with some conditions. One of the condition is that 'he must produce the original tax voice of the vehicle and photograph of the vehicle before the Judicial Magistrate Court, Eraniel'. In pursuance of the above said order, he presented the surety memo before the learned Judicial Magistrate, Eraniel. That came to be returned on 28.11.2023 with the following reasons:-

'மேற்படி நிறுவனத்தில் சொல்லப்பட்டுள்ள சரத்துக்கள் பதிவு நடைமுறைகளுக்கு முற்றிலும் முரணாக உள்ளது. எனவே, மேற்படி மாற்றம் ஏற்றுக்கொள்ளத்தக்கதல்ல என்றும், சட்ட விதிகளுக்கு உட்பட்டு அதனை ஏற்றுக்கொள்ள இயலாது என்பதால் உரிய ஆவணத்தை தாக்கல் செய்ய உத்தரவிடப்படுகிறது.'



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4. Without entertaining the above said application on the judicial side, on the administrative side, it was returned. Challenging the above said return order, this petition has been filed.

5. The trial Court ought to have entertained that application on the judicial side. Deciding the application on the administrative side, may not be proper. On the sole ground, without going into other aspects, the return docket order passed by the learned Judicial Magistrate, Eraniel dated 28.11.2023, is hereby set aside and Criminal Original Petition is allowed.

6. Let the above said application be represented before the concerned trial Court immediately. So that, the concerned trial Court can entertain the application on the judicial side. For that purpose, the original memo may return to the petitioner after acknowledgement by the Registry.

22.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
dss



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To

- 1.The Judicial Magistrate,
Eraniel.
2. The Principal Sessions Judge,
Kanyakumari District at Nagercoil.
3. The Inspector of Police,
Karunkal Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J.

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