

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.20222 of 2015

Ellango Thangavel .. Petitioner/3rd party/
owner of the Vehicle

Vs

The State by
Sub Inspector of Police
Dharapuram Police Station
Tiruppur District ... Respondent/Complainant
Cr.No.242 of 2012

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to permit the petitioner to sell his Innova Car bearing Reg.No.TN 07 BY 4257 which was seized and produced before the Hon'ble Judicial Magistrate, Dharapuram in P.R.No.185 of 2012 relating to the FIR in Cr.No.242 of 2012 on the file of the respondent by allowing this Petition.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This petition has been filed to permit the petitioner to sell his Innova Car bearing Reg.No.TN 07 BY 4257 which was seized and produced before the Hon'ble Judicial Magistrate, Dharapuram in P.R.No.185 of 2012 relating to the FIR in Cr.No.242 of 2012 on the file of the respondent.

2. On a complaint lodged by one Santosh Kumar, the respondent police registered a case in Cr.No.242 of 2012 on 29.03.2012 and after completing the investigation, they have filed a Final Report for offences under Sections 120(b), 420 and 506(ii) IPC against one Buvanesh, Usha Rani and Hemavathy.

3. It is the case of the prosecution that Santosh Kumar [defacto complainant], Buvanesh are neighbours and that Buvanesh had promised the defacto complainant that he will induct him as share holder in his business, if he invests around Rs.40 lakhs and believing his

representation it is alleged that, Santosh Kumar invested money, but the accused had cheated him. During the course of investigation, the respondent police seized the Innova Car bearing Registration No.TN 07 BY 4257 belonging to the petitioner herein on the premise that, the accused Buvanesh had gone to the house of the defacto complainant by that car and threatened him. This petitioner who is the friend of Buvanesh, had innocently left his car with him and that the said Buvanesh is alleged to have gone to the house of the defacto complainant in the car. This petitioner is not an accused in this case. This petitioner filed Crl.M.P.No.2635 of 2012 in Dharapuram Police Station Cr.No.242 of 2012 before the learned Judicial Magistrate, Dharapuram for return of the car under Section 451 Cr.P.C. and the learned Magistrate by order dated 31.05.2012, returned the car on the following conditions:

"In the result, the above application is allowed and the interim custody of the INNOVA CAR bearing Reg.No.TN 07 BY 4257, is ordered to be handed over to the petitioner on his executing a bond for Rs.5,00,000/- with two sureties each for a like sum to the satisfaction of this Court.

The petitioner is directed to take photographs of the aforesaid vehicle from 3 directions and hand over the photographs with negatives/C.D before this Court and same is ordered to be kept in this case records and the respondent police is directed to permit the petitioner to take photographs of the aforesaid vehicle.

The petitioner is further directed not to sell encumber/alienate the aforesaid vehicle and not to alter the shape and the vehicle is to be produced before this Court as and when required.

The petitioner is directed to produce the original R.C.Book before this Court and the same shall be kept in the case records."

4. Now the petitioner is seeking for modification of the aforesaid conditions on the ground that, he has to dispose of the said car as he is incurring lot of expenses for maintaining it.

5. Taking into consideration the nature of the allegations in the Final Report, this Court is of the view that it will not be necessary for the prosecution to mark the car as a material object. Already photographs of the car have been taken and the photographs can be filed during trial. The police may also record the further statement under Section 161(3) Cr.P.C. from this petitioner even though Final Report has been filed to the effect that, he has moved this Court in this petition and has obtained permission from this Court for the

disposal of the car, pursuant to which he had disposed the car. A copy of this Court's order can also be marked through the Investigating Officer or this petitioner, as the case may be.

6. As regards the R.C.Book, the learned Judicial Magistrate, Dharapuram is directed to take photographs of the same, attest and return the original R.C.Book to the petitioner within one week from the date of receipt of a copy of this order. It is suffice if the attested photocopy of the R.C. Book is marked during trial. The petitioner is permitted to dispose the Innova Car bearing registration No.TN 07 BY 4257.

With the above directions, this petition is allowed as prayed for.

-s/d-

Assistant Registrar(CSII)

dt:21/9/2015

True Copy

Sub-Assistant Registrar

gms
To

1.The Judicial Magistrate,
Dharapuram

2.The Sub Inspector of Police
Dharapuram Police Station
Tiruppur District

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.M.Guruprasad, Advocate sr.45789

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