

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.22450 of 2015

Moorthy ... Petitioner/Petitioner.
Vs
State rep by
The Station House Officer, [C.P.5/15]
Kullanchavady Police Station,
Cuddalore District.(Cr.No.157/2015) ... Respondent/Complainant.

Criminal Original Petition filed under Section 439[1]b of Cr.P.C., praying to modify the order passed by the Additional Mahila Judicial Magistrate, Cuddalore in C.M.P.No.757 of 2015 on 29.07.2015 enabling the petitioner to produce the certified copy of R.C. Book of the Vehicle viz. Toyota Innova car bearing Reg.No.TN 20 CY 5731 instead of producing original R.C.Book.

For Petitioner : Mr.S.P.Meenakshi Sundaram
For Respondent : Mr.C.Emalias, APP

O R D E R

This petition has been filed to modify the order dated 29.07.2015 passed by the learned Additional Mahila Judicial Magistrate, Cuddalore in CMP.No.757 of 2015.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor for the respondent and perused the materials placed on record.

3. It is seen that this petitioner is a tourist car operator and owner of the Toyota Innova Car bearing registration No.TN 20 CY 5731. Earlier, this car was hired by few persons for a trip to Bangalore. Enroute, the occupants of the car, assaulted the driver and pushed him out of the car and took away the car.

4. On the complaint lodged by the driver, Ambur Police registered a case in Crime No.634 of 2015 under Section 392, 397 IPC and during the course of investigation, the car was recovered and was produced before the learned Judicial Magistrate, Ambur. On an application under Section 451 Cr.P.C filed by this petitioner, the said car was returned by the learned Judicial Magistrate, Ambur, on condition, that the RC book should be deposited with him.

5. Thereafter, this car was hired by some other persons, who had allegedly committed offence under Section 294[b], 147, 506[i] IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women [TNPHW] Act, in connection with which, a case in Crime No.157 of 2015 has been registered by the Kullanchavady Police Station, Cuddalore District. The car was once again recovered and was produced before the learned Additional Mahila Judicial Magistrate, Cuddalore.

6. The petitioner filed CMP.No.757 of 2015 under Section 451 Cr.P.C and the learned Magistrate allowed the application under following conditions:

"1.The petitioner should execute a bond for a sum of Rs.10,000/- along with one surety the likesum and on a further conditions that,

2.The petitioner should produce original RC book standing in his name with regard to Innova Car-vehicle, bearing registration No.TN20-CY-5731.

3.Case property namely the vehicle should be photographed and signed by both the petitioner and the SHO.

4.Panchanama to be prepared by the Head Ministerial Officer.

5.The petitioner shall file an affidavit before this Court in Crime No.157/2015 of Kullanchavadi Police Station that the vehicle will not be alienated or transferred or transformed into any other form including its colours and that he shall not cause any damage to the vehicle and cause the production of the said vehicle as and when required.

6.Through court Address the Regional Transport Authority, Cuddalore or to the concerned authority with whom the vehicle was registered requiring him not to entertain any application for transfer of ownership of the said vehicle until further orders."

7. Aggrieved by the aforesaid conditions, this petitioner has approached this Court. The offences involved in this case are not heinous offences. It is not the case of the prosecution that some contraband were secreted in the car and was taken for illicit purpose.

8. It is the case of the prosecution that, the accused had hired this car from the petitioner, who is into travels business and had committed the aforesaid offence.

9. Therefore, the car need not be marked as a Material Object in the trial of the said offence. It will be sufficient, if the aggrieved victim gives evidence cogently implicating the accused. Already photographs of the car has been taken and the same can be marked during trial. Under such circumstances, the condition Nos.2,5 and 6 in the order dated 29.07.2015 in CMP.No.757 of 2015 are deleted. As regards condition No.1, it is modified as follows:

"The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties for the likesum."

10. The respondent police shall record a further statement from this petitioner under Section 161[3] Cr.P.C, in connection with the proceedings initiated by him for taking custody of the car and a copy of this order can also be marked in the Trial Court to prove the fact that the said car has been returned to the petitioner.

The petition is ordered accordingly.

gya

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

- 1.The Additional Mahila Judicial Magistrate,
Cuddalore.
- 2.The Station House Officer, [C.P.5/15]
Kullanchavady Police Station,
Cuddalore District.
- 3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.S.P.Meenakshisundaram, Advocate SR 51811

msm(co)
prk28/9

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