

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.7277 of 2015

M.Muthulingam

...Petitioner

vs.

The State, rep. by  
Inspector of Police,  
Karumanthurai Police Station,  
Salem District.

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to set aside the docket order, dated 05.02.2015, and to direct the Judicial Magistrate No.II, Attur, to take on file the return of property petition in C.M.P.No.Sr.724 of 2015.

For Petitioner : Mr.N.Sudharsan

For Respondent : Mr.M.Maharaja  
Additional Public Prosecutor

O R D E R

This petition is filed to set aside the docket order, dated 05.02.2015, passed by the learned Judicial Magistrate No.II, Attur, in C.M.P.No.Sr.724 of 2015 and consequently, to direct the aforesaid Magistrate to take on file the petition filed by the petitioner.

2. The petitioner has filed a Petition under Section 457 of Cr.P.C. for custody of his vehicle, viz., "Hero Passion Pro", bearing Registration No.TN 77 Z 6901, before the aforesaid Magistrate Court. The learned Magistrate, by a docket order, dated 05.02.2015, returned the papers, stating that confiscation proceedings are under contemplation, as represented by the learned Public Prosecutor. Against the said order, the present Criminal Original Petition is filed.

3. It is submitted by the learned counsel appearing for the petitioner that, in the absence of any confiscation order passed by the Government, the Court below cannot refuse to entertain the Petition filed by the petitioner.

4. As rightly submitted by the learned counsel appearing for the petitioner, unless orders are passed by the Government, confiscating the vehicle, the Court below cannot refuse to entertain the Petition filed under Section 457 Cr.P.C.

5. Therefore, the Criminal Original Petition is allowed and the order, dated 05.02.2015, which is impugned herein is set aside. Consequently, the learned Judicial Magistrate No.II, Attur, Salem, is directed to consider the Petition filed by the petitioner for return of the vehicle, viz., C.M.P.No.Sr.724 of 2015 and pass orders in accordance with law within a period of two weeks from the date of representation of the same.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sd

To

- 1 Inspector of Police,  
Karumanthurai Police Station,  
Salem District.
- 2.The Judicial Magistrate, No.II, Attur, Salem.
- 3.The Public Prosecutor,  
High Court, Madras.

1 cc to Mr. N.Sudharasan, Advocate, SR.No.16291

ctk(co)  
pmk.26.3.2015

Cr1.O.P.No.7277 of 2015

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