

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2014

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.889 of 2014

Senthilkumar

...Petitioner/Petitioner/Accused

Vs.

State:rep. by

The Sub-Inspector of Police,
Thalaivasal Police Station,
Salem District.
(Crime No.107 of 2014)

...Respondent/Respondent/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to set aside the order of dismissal dated 06.06.2014 made in C.M.P.No.2329 of 2014 on the file of learned Judicial Magistrate, No.2, Attur.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (Crl.side)

O R D E R

Petitioner challenges the order of learned Judicial Magistrate, No.2, Attur, passed in C.M.P.No.2329 of 2014 on 06.06.2014, rejecting the petition filed for return of vehicle.

2. The respondent has seized Hero-Honda Passion Pro bearing Registration No.TN.37 BT 1445 belonging to the petitioner in connection with the case registered in Crime No.107 of 2014 on its file for offence under Section 302 IPC. The petitioner has moved Crl.M.P.No.2329 of 2014 before the learned Judicial Magistrate, No.2, Attur, seeking return of vehicle. Such petition came to be dismissed under order of the Court below dated 6.06.2014 and hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate (Crl.side).

4. In the circumstances above stated and following the decisions of the Hon'ble Apex Court in Sunderbhai Ambalal Desai v. State of Gujarat (AIR 2003 Supreme Court 638) and General Insurance Council V. State of Andhra Pradesh in 2010 (3) Supreme Pg. 317, this Court directs as follows:

The motorcycle bearing Registration No. TN.37 BT 1445 shall be placed in the custody of the petitioner after complying with the following:

(i) the Court below shall cause photographs of vehicle to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of vehicle shall be dispensed with.

(ii) the vehicle shall then be returned to the petitioner, who shall be at liberty to deal with the same in such manner as considered appropriate.

The above order is not determinant of the ownership or other rights in respect of vehicle.

5. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate, No.2, Attur, passed in C.M.P.No.2329 of 2014 on 06.06.2014, is set aside.

Sd/-

Asst. Registrar (AD-I)

//True Copy//

Sub Asst. Registrar.

msk

To

1. The Judicial Magistrate, No.2,
Attur

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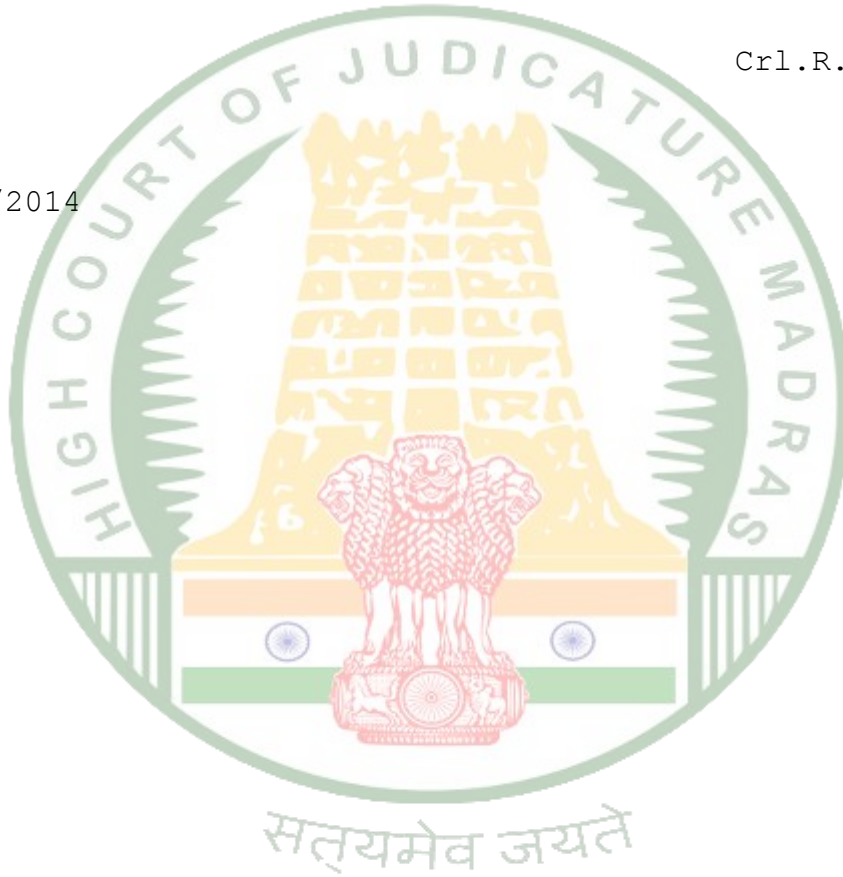
2. The Sub-Inspector of Police,
Thalaivasal Police Station,
Salem District

3. The Public Prosecutor,
High Court, Chennai.

1CC to Mr.B.Vasudevan, Advocate, SR 45567

Cr1.R.C.No.889 of 2014

CTK [CO]
PSI 07/10/2014



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