

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2016

CORAM:

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

Crl.R.C.No.1313 of 2015

Perumal

.. Petitioner

Vs.

State by
Inspector of Police (PEW),
Attur Police Station
Salem District.
(Crime No.527/15)

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to set aside the order of the Judicial Magistrate No.2 at Attur in C.M.P.No.4928 of 2015 dated 07.12.2015 and direct the respondent to handover the vehicle (Maxi Car) bearing Registration No.TN.54.B.3555 TATA Magic, Engine No.2751D105AZYS11333 seized on 05.11.2015 by the respondent in Crime No.527 of 2015 to the petitioner.

For Petitioner : Mr.R.Asaithambi

For Respondent : Mr.C.Iyyapparaj
Government Advocate (Crl.side)

O R D E R

Petitioner challenges the order of learned Judicial Magistrate II, Attur, passed in C.M.P.No.4928 of 2015, on 07.12.2015, rejecting the petition filed for return of vehicle.

2. Respondent has seized a TATA Magic Maxi Car bearing Registration No.TN.54.B.3555, Engine No.2751D105AZYS11333, belonging to the petitioner in connection with the case registered in Crime No.527 of 2015 on its file for offences under Sections 4(1) (aaa), 4(1-A) of Tamil Nadu Prohibition Act. The petitioner has moved C.M.P.No.4928 of 2015 before the learned Judicial Magistrate II, Attur, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 07.12.2015 and hence, this revision.

3. Learned counsel for the petitioner would seek to impress upon this Court that a false case stands foisted upon the petitioner.

4. Learned Government Advocate [Crl.side] submits that action towards confiscation is now being initiated.

5. In the circumstances above stated, this Court would set aside the order of the Court below negating the return of vehicle. This court is of the considered view that no prejudice would be caused to the prosecution in the event of granting the relief of interim custody of the vehicle to the petitioner. Learned Judicial Magistrate II, Attur, is directed to return the vehicle viz., TATA Magic Maxi Car bearing Registration No.TN.54.B.3555, Engine No.2751D105AZYS11333, to the petitioner on fulfilling the following conditions:

- i.the petitioner shall establish the ownership of the vehicle by producing necessary original certificates before the respondent police and as well as before the learned Magistrate and the learned Magistrate on verification, shall retain the original documents, if necessary and cause forwarding thereof to the confiscating authority in the event of confiscation;
- ii.the petitioner shall not alienate the vehicle in any manner till adjudication is over;
- iii.the petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) to the satisfaction of the learned Judicial Magistrate II, Attur; and
- iv.the petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the confiscating authority.

6. In the event of confiscation, the petitioner's rights shall be governed by the provisions of the T.N.Prohibition Act. It is made clear that if towards fixing the value of the vehicle the confiscating authority requires production thereof, he may serve notice on the petitioner requiring him to produce the vehicle and the same shall be complied with by the petitioner.

7. Accordingly, the Criminal Revision is ordered. Consequently, the connected miscellaneous petition is closed.
vsm

s/d-
Assistant Registrar(J)

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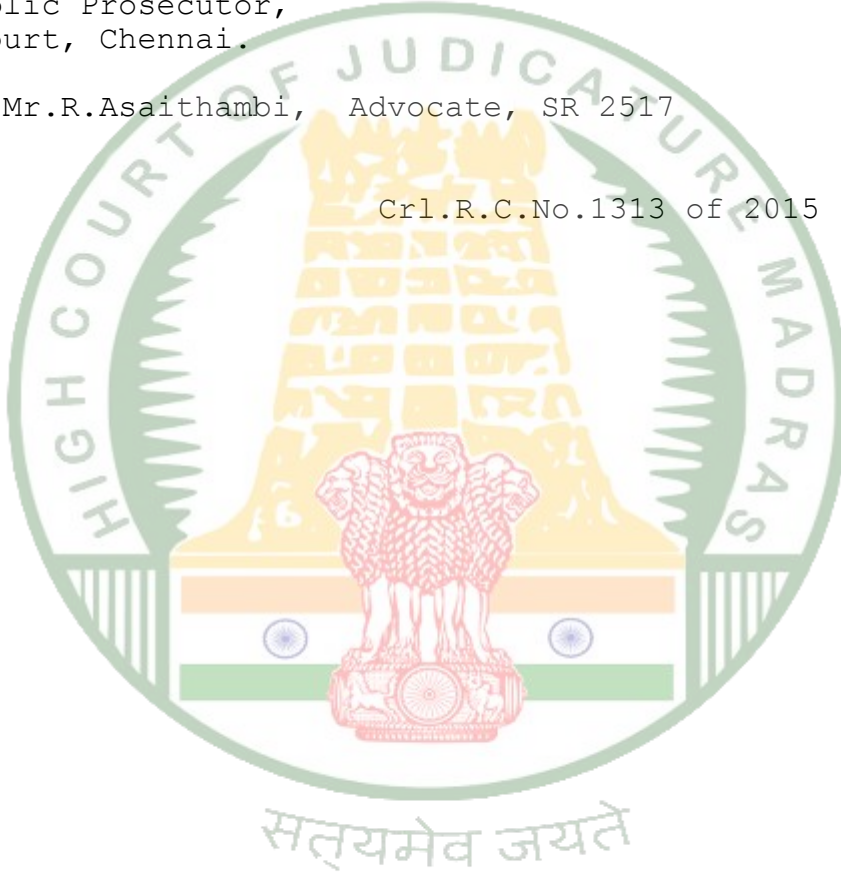
Sub-Assistant Registrar

To

1. The Judicial Magistrate II
Attur.
 2. do thro the Chief Judicial Magistrate
Salem.
 3. The Inspector of Police (PEW),
Attur Police Station
Salem District.
 4. The Public Prosecutor,
High Court, Chennai.
- + 1 cc to Mr.R.Asaithambi, Advocate, SR 2517

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