

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2016

CORAM :

THE HON'BLE MR.JUSTICE C.T. SELVAM
Crl.R.C.No.1068 of 2016

Arunagiri

.. Petitioner

Vs.

State by
Forest Officer, Tamil Nadu Forest Department,
Ulundurpet Division,
Ulundurpet, Villupuram District.
(Cr.No.31 of 2016)

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
praying to call for the records on the file of the learned
Judicial Magistrate II, Ulundurpet in C.M.P.No.3063 of 2016
dated 11.04.2016 and set aside the order.

For Petitioner : Mr.T.Dharani
For Respondent : Mr.M.Mohammed Riyaz
Govt. Advocate (Crl.side)

O R D E R

The petitioner challenges the order of the learned Judicial
Magistrate II, Ulundurpet, made in CMP.No.3063 of 2016 dated
11.04.2016, rejecting the petition filed for return of vehicle.

2. Under orders in Crl.OP.No.7513 of 2016 dated 27.07.2016,
this Court has been pleased to direct return of JCB vehicle used
in the commission of offence registered in Cr.No.31 of 2016, on
the file of the respondent police.

3. The respondent has seized a Hero Honda motor cycle
bearing Registration No.TN31-AE-2215 belonging to the petitioner
in connection with the case registered in Crime No.31 of 2016 on
its file for offence under Section 21(d)(e)(f)(g) of Tamil Nadu
Forest Act. The petitioner has moved C.M.P.No.3063 of 2016
before the learned Judicial Magistrate II, Ulundurpet, seeking
return of the vehicle. Such petition came to be dismissed under
orders of the Court below dated 11.04.2016 and hence, this
revision.

4. Learned counsel for the petitioner would seek to impress
upon this Court that a false case stands foisted upon the
petitioner. This Court is now concerned with return of

property, pure and simple.

5. 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 Hero Honda motor cycle bearing Registration No.TN31-AE-2215 shall be placed in the custody of the petitioner after complying with the following:

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

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

7. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate II, Ulundurpet, passed in C.M.P.No.3063 of 2016 dated 11.04.2016 is set aside.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate II, Ulundurpet.

2.Do-Thro The Chief Judicial Magistrate
Villupuram

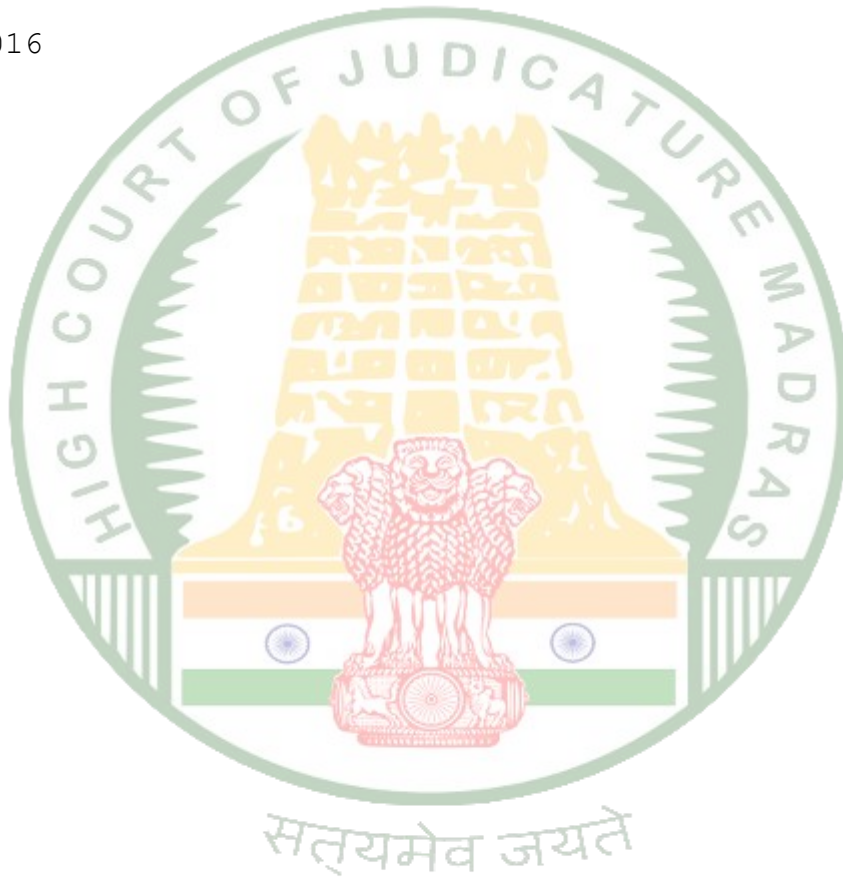
3.The Public Prosecutor, High Court, Chennai.

4.The Forest officer
Tamil Nadu Forest Department
Ulundurpet Division
Ulundurpet, Villupuram District

+1 cc to Mr.T.Dharani Advocate sr 72597

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