

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

CORAM:

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

Crl.R.C.No.109 of 2016

Smt.M.Sivagami
W/o.Mohan

.. Petitioner

Vs.

State represented by
Inspector of Police,
Hudco Police Station
(Cr.No.732 of 2015)

... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
praying to set aside the order passed by the learned Judicial
Magistrate II, Hosur made in Crl.M.P.No.6769 of 2015 dated
12.01.2016.

For Petitioner :Mr.P.Kumaresan

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

O R D E R

The petitioner challenges the order of the learned Judicial
Magistrate II, Hosur, passed in Crl.M.P.No.6769 of 2015 dated
11.01.2016, rejecting the petition filed for return of vehicle
and 150 bags of Tobacco.

2. The respondent has seized a lorry bearing Registration
No.TN 24-Q-1197 belonging to the petitioner in connection with
the case registered in Crime No.732 of 2015 on its file for
offences under Sections 180, 187 and 328 IPC and Section 7 of
the Tamil Nadu Prohibition of Smoking and Spitting Act, 2003.
The petitioner has moved Crl.M.P.No.6769 of 2015 before the
learned Judicial Magistrate II, Hosur, seeking return of the
vehicle and also 150 bags of Tobacco. Such petition came to be
dismissed under orders of the Court below dated 11.01.2016 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 (CrI.side) submits that the petitioner is the owner of the vehicle. He would further submit that the petitioner is not an accused in this case.

5. In the circumstances above stated and considering the fact that the petitioner is the owner of the vehicle 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 lorry bearing Registration No.TN 24-Q-1197 shall be placed in the custody of the petitioner after complying with the following:

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

ii)The vehicle and the goods 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 and the goods.

7. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate II, Hosur, passed in C.M.P.No.6769 of 2015 dated 11.01.2016 is set aside.

Sd/-

Assistant Registrar(VI)

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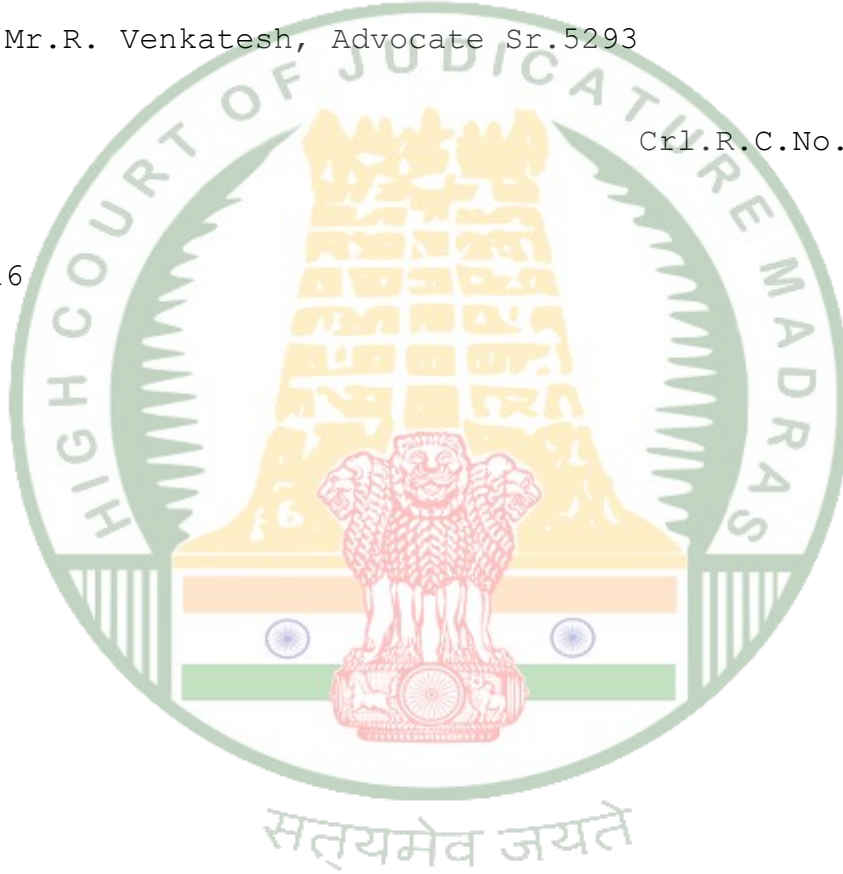
Sub Assistant Registrar

gpa

1. The Judicial Magistrate II
Hosur.
 2. -do- Through The Chief Judicial Magistrate,
Krishnagiri.
 3. The Inspector of Police, Hudco Police, Station,
 4. The Public Prosecutor, High Court, Madras.
- + 1 cc to Mr.R. Venkatesh, Advocate Sr.5293

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KSJ(CO)
EU 09.02.16



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