

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM:

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

Crl.R.C.No.1153 of 2016

A.Vinoth Kumar

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Rajamangalam Police Station,
Chennai,
Crime No.190 of 2016.

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to call for the records in Crl.M.P.No.2094 of 2016 on the file of the learned XIII Metropolitan Magistrate, Egmore (Allikulam), Chennai - 3, set aside the order dated 23.06.2016 and direct the learned Magistrate to return the Tata Indica car bearing Registration No.TN 01 AK 6908 to the custody of the petitioner herein.

For Petitioner : Mr.K.R.Samratt

For Respondent : Mr.K.Madhan,
Govt. Advocate (Crl.side)

ORDER

The petitioner challenges the order of the learned XIII Metropolitan Magistrate, Egmore (Allikulam), Chennai - 3, made in Crl.M.P.No.2094 of 2016 dated 23.06.2016, rejecting the petition filed for return of vehicle.

2. Petitioner is the owner of the vehicle and he used the car for cash collection from various Tasmac Shops run by Government. He is engaged by the company namely, M/s.Radiant Cash Management Services, Chennai. In an occurrence on 25.04.2016, three unknown accused persons threw chilly powder on the face of the petitioner and also on the gun man's face and attempted to rob the collected cash, which was kept in the car seat. They stabbed the Gunman with a knife, resulting in his death. The respondent has seized the car bearing Registration No.TN 01 AK 6908 belonging to the petitioner in connection with the case registered in Crime No.190 of 2016 on its file for offence under Sections 397 and 511. Petitioner has moved Crl.M.P.No.2094 of 2016 before the learned XIII Metropolitan Magistrate, Egmore (Allikulam), Chennai - 3, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 23.03.2016 on the reasoning that investigation was not completed and the Observation Magazar informed that blood stains were found in the back seat of the car. As against the said order, the present criminal revision petition has been filed.

3. Learned Government Advocate (Crl.side) submits that photographs of the car have been taken and the blood stain found in the back seat of the car has been sent for chemical analysis.

4. Recording the submissions of learned Government Advocate (Crl.Side), this Court is inclined to allow the criminal revision petition. Accordingly, 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 01 AK 6908 shall be placed in the custody of the petitioner after complying with the following:

i)The Court below 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.

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

6. In the result, the Criminal Revision is allowed. The order of the learned XIII Metropolitan Magistrate, Egmore (Allikulam), Chennai - 3, passed in in Crl.M.P.No.2094 of 2016 dated 23.06.2016, is set aside.

18.10.2016

Index:yes/no
Internet:yes/no
cla

To

1.The Metropolitan Magistrate XIII,
Egmore (Allikulam),
Chennai - 3,.

2.The Inspector of Police,
Rajamangalam Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Chennai.

C.T. SELVAM J.,
cla

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