

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM:

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

Crl.R.C.No.1448 of 2016

Thirupathi

.. Petitioner

vs.

State rep by
The Inspector of Police
Singarapettai Police Station
Krishnagiri District

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order passed by the learned District Munsif cum
Judicial Magistrate, Uthangarai, Krishna district in
Crl.M.P.No.2673 of 2016 on 21.10.2016.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.M.Mohammed Riyaz

O R D E R

This revision challenges the order of the learned District
Munsif cum Judicial Magistrate, Uthangarai, Krishnagiri district
in Crl.M.P.No.2673 of 2016 on 21.10.2016.

2. The order of the Court below dismissing the petition
seeking return of vehicle proceeds on the basis that the
petitioner is the accused both in Crime No.250/2016 wherein
return of vehicle is sought as also Crime.No.103 of 2016 wherein
return of vehicle of the petitioner had been directed under
orders in Crl.M.P.No.388 of 2016 on 21.03.2016.

3. It is the contention of the learned counsel for
petitioner that the petitioner, who is the owner of the vehicle
and the accused involved in both cases, share a common name.

4. In response to query, learned Government Advocate
(Crl.side) on instructions submits that the petitioner

Thirupathi is s/o Perumal while the accused in both cases answers to the name Thirupathi s/o Murugan.

5. Taking into consideration the further submission of learned counsel for petitioner that petitioner will ensure that his vehicle is not used for any wrong doings, this Court directs return of vehicle.

6. 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 OMNI car bearing Registration No.TN-24-AD-5330 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.

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

8. In the result, the Criminal Revision is allowed. The order of the learned District Munsif cum Judicial Magistrate, Uthangarai, Krishna district, passed in CrI.M.P.No.2673 of 2016 on 21.10.2016 is set aside.

Sd/-

Asst.Registrar (CS II)

/true copy/ जयते

Sub Asst. Registrar

To

The District Munsif cum Judicial Magistrate,
Uthangarai, Krishnagiri district

1 cc to M/s.E. Kannadasan, Advocate, Sr. 73911

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