

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM:

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

Crl.R.C.No.408 of 2016

Suganthi

..Petitioner/Petitioner

Vs.

State by Addl. Deputy Superintendent
of Police,
CBCID, Namakkal

... Respondent/Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
praying to set aside the order of dismissal dated 20.01.2016
made in C.M.P.No.1535 of 2015 on the file of Chief Judicial
Magistrate, Namakkal.

For Petitioner :Mr.M.Elango

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

ORDER

Petitioner challenges the order of learned Chief Judicial
Magistrate, Namakkal, passed in C.M.P.No.1535 of 2015 on
20.01.2016, rejecting the petition filed for return of vehicle.

2. The respondent has seized the light motor vehicle,
Mahindra and Mahindra bearing Registration No.TN-33-K-2728
belonging to the petitioner in connection with the case
registered in Crime No.02 of 2015 on its file for offence u/s.
363,302 IPC r/w 3(2) (V) SC/ST (PA) Act 1989. The petitioner has
moved Crl.M.P.No.1535 of 2015 before the learned Chief Judicial
Magistrate, Namakkal, seeking return of vehicle. Such petition
came to be dismissed under orders of the Court below dated
20.01.2016 and hence, this revision.

3. Heard learned counsel for petitioner and learned
Government Advocate (Crl.side).

4. 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 light motor vehicle, Mahindra and Mahindra bearing Registration No.TN-33-K-2728 shall be placed in the custody of the petitioner after complying with the following:

- (i) the Court below shall cause photographs of vehicles to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of vehicles shall be dispensed with.
- (ii) the vehicles shall then be returned to the petitioner, who shall be at liberty to deal with the same in such manner as considered appropriate.

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

5. In the result, the Criminal Revision is allowed. The order of the learned Chief Judicial Magistrate, Namakkal, passed in C.M.P.No.1535 of 2015 on 20.01.2016, is set aside.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Chief Judicial Magistrate,
Namakkal

2.The Addl. Deputy
Superintendent of Police,
CBCID, Namakkal

3.The Public Prosecutor,
High Court, Chennai.

+ 1 cc to M/s. M. Elango, Advocate Sr.63754

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CNR(CO)

Eu 20.12.16