

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.19189 of 2016 & Crl.M.P. No.9019 of 2016

Subhas Dundappa Savakar

Petitioner

vs.

The State of Tamil Nadu
represented by
the Inspector of Police
Kolathur Police Station
Salem District
(Crime No.320 of 2012)

Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to set aside the order dated 11.04.2016 made in Crl.R.C. No.86 of 2015 by the III Additional District Judge, Salem, confirming the order dated 04.05.2015 passed by the Judicial Magistrate, No.I, Mettur and order the interim custody of the vehicle bearing Registration No.KA 36 M 4555.

For petitioner
For respondent

Mr. M. Devaraj
Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to set aside the order dated 11.04.2016 passed by the III Additional District Judge, Salem, confirming the order dated 04.05.2015 passed by the Judicial Magistrate No.I, Mettur.

2 The respondent police initially registered a case against the petitioner in Crime No.320 of 2012 for offences under Section 147 and 363, IPC and thereafter, it was altered to one under Section 147, 364-A, 365 and 306 IPC and investigation is pending. During the course of investigation, the police seized a car bearing Registration No. KA 36 M 4555 on the premise that the said car was used for the offence. While so, the petitioner filed a petition in Crl.M.P. No.2022 of 2016 under Section 451, Cr.P.C. before the Judicial Magistrate Court

No.I, Mettur for interim custody, which was dismissed by the Trial Court on 04.05.2015, aggrieved by which, the petitioner preferred a Criminal Revision Petition in CrI.R.C. No.86 of 2015 before the III Additional District Court, Salem, which was also dismissed on 11.04.2016. Challenging the orders passed by the Courts below, the petitioner is before this Court under Section 482, Cr.P.C.

3 Under Section 397(3) Cr.P.C., when once a person elects to approach the Sessions Court, he is precluded from filing a second revision before the High Court. However, under extraordinary circumstances, when grave illegality has occasioned resulting in undue prejudice to a party, it is open to the said party to approach this Court under Section 482 Cr.P.C.

4 Mr. Devaraj, learned counsel for the petitioner submitted that the petitioner is the owner of the car and that the car is rotting in the police station and therefore, both the Courts below have erred in not ordering return of the car to the petitioner.

5 Mr. C. Emalias, learned Additional Public Prosecutor submitted that the car in question was used for the offence and that the engine number in R.C. book and the engine number in the car differs and therefore, the R.C. book itself is a suspect document.

6 This Court gave its anxious consideration to the rival submissions.

7 Under normal circumstances, as per the judgment of the Supreme Court in Sunderbhai Ambalal Desai vs. State of Gujarat, [(2002) 10 SCC 290] vehicles should not be detained in the police station and interim custody should be handed over. But, in this case, this Court finds that both the Courts below have rejected the petitioner's prayer on the ground that the engine number in the R.C. book and the engine number in the car differ, which requires investigation by the police.

8 Under such circumstances, this is not a case where this Court would interfere under Section 482 Cr.P.C. to set aside the well considered and reasoned orders passed by the Courts below.

Resultantly, this Criminal Original Petition is dismissed.
Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(CS II)

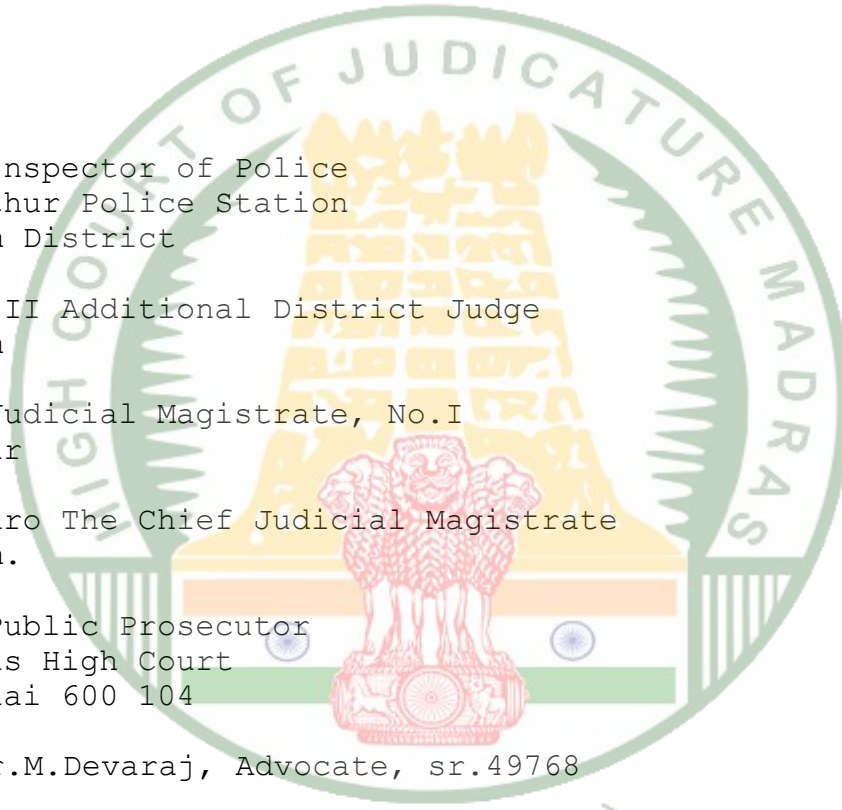
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Sub Assistant Registrar

cad

To

- 1 The Inspector of Police
Kolathur Police Station
Salem District
 - 2 The III Additional District Judge
Salem
 - 3 The Judicial Magistrate, No.I
Mettur
 - 4 Do Thro The Chief Judicial Magistrate
Salem.
 - 5 The Public Prosecutor
Madras High Court
Chennai 600 104
- 1 cc to Mr.M.Devaraj, Advocate, sr.49768



CrI.O.P. No.19189 of 2016

sv co
kra 22.09.2016

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