

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. OP No.19351 of 2016

V. Narayana

..... Petitioner

Vs

State Rep. By
Inspector of Police,
Thalavadi Police Station,
Erode District.

..... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to modify the conditions imposed by the Learned Judicial Magistrate, Sathiyamangalam in Crl.M.P.No.939/2016, dated 04.03.2016.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.C.Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to modify the conditions imposed by the Learned Judicial Magistrate, Sathiyamangalam in Crl.M.P.No.939/2016, dated 04.03.2016.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. It is the case of the prosecution that on 06.11.2015, Rangasamy and two others had gone to Simittahalli village in the auto rickshaw bearing Registration No.KA-11A-7987 to meet the village headman. There, a quarrel appears to have ensued between the village headman and Rangasamy, in which Rangasamy and his people were attacked and assaulted. The auto in which they went was also attacked and damaged. On the complaint given by Rangasamy, the respondent police registered a case in Crime No.137/2015 on 07.11.2015 u/s 147, 148, 294-B, 323, 324 and 428 IPC against Mandai Naicker and six others. The damaged auto was also seized by the police and is now in the custody of the police. While so, the petitioner, who is the owner of the auto filed Crl.M.P.No.939/2016 u/s 451 Cr.P.C. for return of the auto before the learned Judicial Magistrate,

Sathiyamangalam. The learned Judicial Magistrate, Sathiyamangalam, by order dated 04.03.2016 in CrI.M.P.No.939/2016, has directed return of the auto rickshaw on certain onerous conditions, challenging which the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that it is not in dispute that the petitioner is the owner of the auto, as could be seen from the R.C.Book with the petitioner. Admittedly, the victims had gone in the auto rickshaw to Simuttahalli Village, where they were attacked by the accused and the auto was also damaged.

5. In a case of this nature, if the owner of a vehicle which has suffered damage in a violent incident is mulcted with such onerous conditions, people may lose faith in the efficacy of the judicial system. In order to prove the offence, the auto is not an essential feature, because the injured themselves can speak about the alleged offence. The auto has been kept in the police station since 07.11.2015, which would have indeed impaired the livelihood of the petitioner. Under such circumstances, this Court directs the petitioner to furnish a bond for Rs.10,000/- with two sureties to the satisfaction of the Judicial Magistrate, Sathiyamangalam. The petitioner shall furnish the original R.C. Book along with the photocopy of the same and the learned Magistrate after certifying the photocopy, shall return the original R.C. Book to the petitioner. The police is directed to take photographs of the auto in the presence of the Magistrate and the Magistrate can prepare a Memorandum of proceedings and countersign the photographs. The petitioner will be entitled to deal with the auto rickshaw in the manner he wants and he cannot be directed to preserve the auto in the as is where is condition till the trial in this case gets over. The aforesaid conditions shall be complied within two weeks from the date of receipt of a copy of this order and thereafter, the autorickshaw shall be handed over to the petitioner.

With the above direction, this petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Thalavadi Police Station,
Erode District.

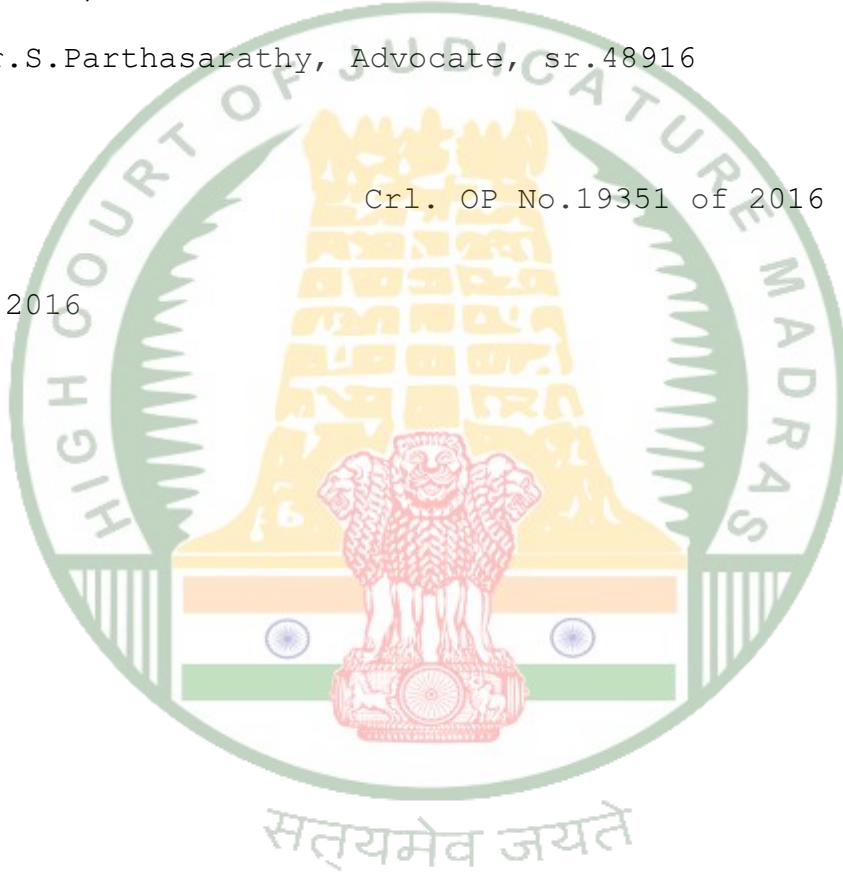
2. The Judicial Magistrate,
Sathiyamangalam.

3. The Public Prosecutor,
High Court, Madras - 104.

1 cc to Mr.S.Parthasarathy, Advocate, sr.48916

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svi co
kra 23.09.2016



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