



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.1786 of 2016

A.Saravanakumar

... Petitioner

vs.

The Inspector of Police
District Crime Branch
Theni, Theni District

... Respondent

PRAYER: This petition is filed under Section 482 Cr.P.C., to direct the respondent Police to return the petitioner's vehicle bearing No.TN57-H-4007, Silver Colour Toyota-Qualis Car, seized by the respondent Police under the guise of enquiry on the basis of complaint given by one namely Chandra.

For Petitioner : Mr.R.Shankar Ganesh

For Respondent : Mr.K.V.Rajarajan, G.A.(Crl.Side)

O R D E R

The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking direction upon the the respondent Police to return the petitioner's Silver Colour Toyota Qualis Car, bearing registration No.TN57 H4007, seized under the guise of enquiry based on the complaint lodged by one Chandra.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

3. It is seen that on a complaint lodged by one Chandra against the petitioner herein, the respondent Police had conducted petition enquiry. Apprehending arrest at the hands of the respondent Police, the petitioner herein filed an application, in Crl.M.P.No.2520 of 2015, for anticipatory bail, before the learned Principal Sessions Judge, Theni, showing crime number not known. The learned Principal Sessions Judge, after hearing both sides, by Order dated 23.11.2015, dismissed the application. The relevant portion of the Order reads as follows:

"5. Heard both. Considering the submissions made by the both learned counsel for all the parties and also perused the petition averments and relevant records. No case has been registered against the Accused / Petitioners. Only petition enquiry is pending. The respondent police is directed not to harass the petitioners. Hence, I dismiss the petition."

4. It is the case of Chandra that the petitioner is the owner of Toyota Qualis Car, bearing registration No.TN57 H4007, which was caught by the respondent Police for default in making payment and that the petitioner approached her for loan of Rs.3,00,000/- and she gave loan to him. But, after receiving the loan, he failed to repay the same.



5. It is the case of the petitioner that his Toyota Qualis Car, bearing registration No.TN57 H4007, is in the illegal custody of the respondent Police and therefore he has filed this petition to direct the respondent Police to return the Car.

6. It is seen that the petitioner filed an application, under Section 457 Cr.P.C., before the learned Judicial Magistrate, Theni, but the same was returned on the ground that there is no F.I.R., pending. Now, the petitioner has alleged that the respondent Police is illegally detaining his car.

7. The learned Government Advocate (Criminal Side) has submitted that Chandra gave a written statement saying that the petitioner's Car, bearing registration No.TN57 H4007, is in her custody and she will return it, if the petitioner repays the loan amount.

8. From the above factual circumstances, it is crystal clear that the respondent Police is not in custody of the petitioner's Car, bearing registration No.TN57 H4007 and hence the respondent Police cannot be directed to return the petitioner's Car.

9. In the result, the criminal original petition fails and it is dismissed. The petitioner is at liberty to work out his remedy in the manner known to law.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1.The Inspector of Police,
District Crime Branch,
Theni, Theni District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.R.Shankar Ganesh, Advocate, SR.No. 9284.

Crl.O.P. (MD) No.1786 of 2016

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