



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.307 of 2016

C.Chelladurai

..Petitioner/Petitioner

-vs-

The Inspector of Police
Andipatti Police Station
Andipatti
Theni District
(Crime No.754 of 2015)

..Respondent/Respondent

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order passed in Cr.M.P.No.1278 of 2016, by the learned Additional Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni, dated 27th day of May 2016 and directing the respondent to return the Vehicle Chevarlet Tavera bearing registration No.TN01 Y9837 for interim custody to the petitioner which seized by the respondent Police from the petitioner in Crime No.754 of 2015, on 20.05.2016 and the same was produced before the Court and remanded in R.P.R.No.11 of 2016 pending investigation.

For Petitioner: Mr.K.Anandan

For Respondent: Mrs.S.Prabha

Govt.Advocate (Crl.Side)

O R D E R

This matter is squarely covered by the Apex Court's Judgment in *Sunderbhai Ambalal Desai v. State of Gujarat* [2003 (1) CTC 175 (SC)].

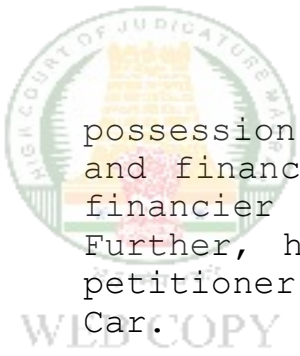
2. The revision petitioner herein is the registered owner of Chevarlet Tavera Car (TN01 Y9837), which has been used in the commission of the offence. The said Car has been seized and has been concerned in this case.

3. The revision petitioner moved the Additional Sessions Court by filing Cr.M.P.No.1278 of 2016 for return of case vehicle to him.

4. The learned Additional Sessions Judge, by his Order dated 27.05.2016, turned down the revision petitioner's request noting down that there is an entry with regard to availing of finance.

5. Aggrieved, this revision has been directed by the vehicle owner.

6. According to the learned counsel for the revision petitioner, the revision petitioner is the owner of the said vehicle. The vehicle documents stands in his name. Ofcourse, he has availed of financial, but the vehicle was in his custody and



possession and it would be a matter as between the vehicle owner and financier as regards the payment of hire amount and that the financier can workout his remedy incase if there is any default. Further, he would submit that no person other than the revision petitioner has filed any application claiming ownership to the Car.

7. The learned Government Advocate (Criminal Side) submitted that the said vehicle has been used to commit a crime. In the circumstances, the Trial Court has passed the impugned order.

8. I have anxiously considered the rival submissions, perused the impugned order and also gone through the materials on record.

9. In a petition, under Section 451 Cr.P.C., the right of ownership need not be gone into. However, the Court has to consider who was in the immediate possession of the property. Now, in this case, the vehicle documents stands in the name of revision petitioner. The ratio in *Sunderbhai Ambalal Desai* (supra) squarely applies to this case.

10. In the circumstances, ordered as under:

- i. This criminal revision is allowed.
- ii. The Order, dated 27.05.2016, passed in Cr.M.P.No.1278 of 2016, by the learned Additional Sessions Judge, Mahila Court (Fast Track Court), Theni, is set aside.
- iii. The learned Judge, will give interim custody of Chevarlet Tavera Car (TN01 Y9837) to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.4,50,000/- (Rupees four lakhs and fifty thousand only) to the satisfaction of the said Judge.
- v. The Panchanama and the photograph, if already taken, shall be kept in the case records.
- vi. Until final property order is passed by the said Judge, the revision petitioner shall not dispose of, alter or change the vehicle.
- vii. The revision petitioner shall cause the production of vehicle as and when so ordered by the said Judge.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.



To:

1.The Additional Sessions Judge,
Mahila Court,
(Fast Track Court),
Theni.

2.The Addl.Public Prosecutor (Criminal Side)
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police,
Andipatti Police Station,
Andipatti, Theni District.

+1cc to M/s.K.Anandan, Advocate in SR.27372

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PBK/GSV-PM/SAR-II 03/06/2016 ::3P-5C::