



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 13.07.2016**

**CORAM:**

**THE HONOURABLE DR.JUSTICE P.DEVADASS**

**C.R.L.RC(MD) No.474 of 2016**

**WEB COPY**

G.Sharmila

... Petitioner / Petitioner

-vs-

The Inspector of Police,  
Ammaiyanayakknoor Police Station,  
Dindigul District.  
(Crime No.52 of 2016)

... Respondent/Respondent

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records and set aside the order of the learned Judicial Magistrate, Nilakkottai, Dindigul District in Cr.M.P.No.2026/2016 dated 02.06.2016 and return the petitioner's property seized by the respondent police in connection with the Crime No.52 of 2016.

For Petitioner : Mr.M.Maharaja

For Respondent : Mrs.S.Prabha  
Govt.Advocate (Crl.Side)

**O R D E R**

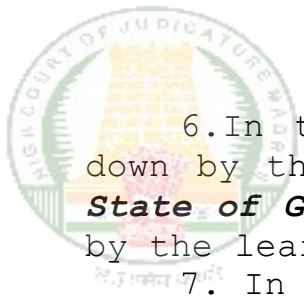
The third party, who happens to be the wife of the accused seeks to challenge the dismissal of her Cr.M.P.No.2026 of 2016 filed under Section 451 Cr.P.C. for return of Swift Car TN 06 A 0750.

2.This revision petitioner's husband, an Inspector of Police is alleged to have used her car for committing robbery. It is an alleged case of 'fence eating the grass'. In this case, the car has become a case property. Accused's wife seeks the car.

3.RC book stands in the name of one Kanagaraj. Revision petitioner sought for the car on the strength of car sale agreement between herself and the said Kanagaraj.

4.The accused befriended the car owner Kanagaraj. He sold the car to the wife of the accused. A sale agreement also has been entered into between them. The car came to the possession of the purchaser/revision petitioner. She had failed to submit the T.O. Form to the concerned RTO office for entering her name in the R.C. Book. That is why still in the RC book Kanagaraj's name continues.

5.In his statement under Section 161(3) Cr.P.C. to the investigation officer, Kanagaraj stated that he had sold his car to the wife of the accused under a sale agreement.



6. In the circumstances, in the light of the principles laid down by the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]** the impugned order passed by the learned Judicial Magistrate is unsustainable.

7. In the circumstances, ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 02.06.2016, passed in Cr.M.P.No.2026 of 2016, by the learned Judicial Magistrate, Nilakottai, is set aside.
- iii. The learned Magistrate, will give interim custody of the Swift Car TN 06 A 0750 to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.3.50,000/- (Rupees Three Lakhs Fifty Thousand only) to the satisfaction of the said Magistrate.
- v. Photograph of the car shall be taken and kept in the case records.
- vi. The car shall not be disposed of till property order is passed by the trial Court.
- vii. As and when so ordered by the Court the revision petitioner shall produce the car.

Sd/-

Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Chief Judicial Magistrate,  
Dindigul.
  2. The Judicial Magistrate,  
Nilakottai, Dindigul District.
  3. The Inspector of Police,  
Ammaiyanayakknoor Police Station,  
Dindigul District.
  4. The Government Advocate (Criminal Side)  
Madurai Bench of Madras High Court,  
Madurai.
- +1cc to M/S.M.MAHARAJAN, ADVOCATE, SR NO: 36584  
SJ  
JA-GSV-PM/20.7.2016/2P:6C

C.R.L.RC (MD) No.474 of 2016