

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2017

CORAM :

THE HON'BLE MR.JUSTICE M.S.RAMESH

Crl.O.P.No.6253 of 2017

M.S.K.Fincop Finance
Rep. by its Manager,
K.Kumaravadivel
32, Palaniappa Complex,
Mettur Road,
Erode.

.. Petitioner

Vs.

1.N.Sivakumar
2.The State of Tamil Nadu
Represented by the Inspector of Police
District Crime Branch Police Station,
Tiruppur.

3.S.K.Venkatapathy

... Respondents

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C. praying to set aside the partial portion of the order dated on 10.02.2017 in Crl.M.P.No.236 of 2017 in Crime No.3 of 2016 pending on the file of the Judicial Magistrate Court, Palladam (Condition payment of sum of Rs.5,40,000/-).

For Petitioner : M/s.S.Sithirai Anandam

For Respondents: Mr.P.Govindarajan

Additional Public Prosecutor for R2

No appearance for R1&R3

सत्यमेव जयते
O R D E R

The petitioner, who had been arrayed as third party in Crime No.3 of 2016, has filed Crl.M.P.No.236 of 2017 before the Judicial Magistrate, Palladam, seeking a direction to the respondent police for production of the vehicle bearing Registration No.TN 33 BM 1188, (Hyndai Creta) Car (RDI) with Chassis No.:MALC381UL GM 156904 and Engine No.D4FBGM170742 Diesel Vehicle and handover the vehicle to the petitioner.

2.The Court below passed an order dated 10.02.2017 that the interim custody of the vehicle on pre-condition to deposit a sum of Rs.5,40,000/- to the credit of Cr.No.3 of 2016 on the file of the Judicial Magistrate, Palladam. Seeking to modify

the same, the present petition had been filed.

3.Heard Mr.S.Sithirai Anandam, learned counsel appearing for the petitioner and Mr.P.Govindarajan, learned Additional Public Prosecutor appearing for the second respondent.

4.This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvassagam Vs. State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in CrI.O.P.No.20483 of 2017 dated 05.10.2017. By relying on various judgments of the Hon'ble Supreme Court as well as this Court, it was held therein that the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous condition came to be modified in the said order.

5.I am of the view that the present condition imposed by the trial Court is a similar onerous condition and in view of the stand taken in the aforesaid order, the present petition seeking for modification also requires consideration.

6.In the result, the Criminal Original Petition stands allowed. Consequently, the condition imposed on the petitioner in CrI.M.P.No.236 of 2017 by its order dated 10.02.2017 directing the petitioner to deposit a sum of Rs.5,40,000/- shall stand modified as follows:

"the petitioner shall execute a bond of undertaking to the tune of Rs.5,40,000/- instead of depositing a sum of Rs.5,40,000/-.

All other conditions imposed in the order dated 10.02.2017 in CrI.M.P.No.236 of 2017 shall remain intact.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate Court, Palladam

2. The Inspector of Police
District Crime Branch Police Station,
Tiruppur.

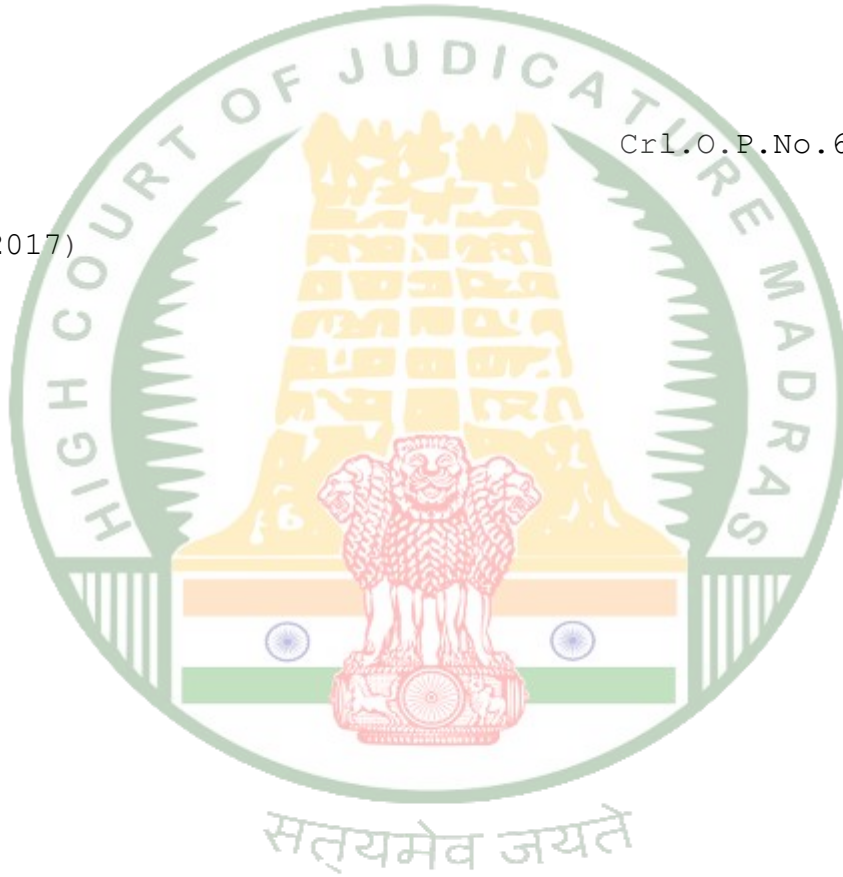
3. The Chief Judicial Magistrate, Tirupur.

4. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S. Sithirai Anandan, Advocate sr 76684.

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RJ(CO)
SP(04/12/2017)



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