

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :21.02.2018

Pronounced on :02.03.2018

CORAM

The Hon'ble Mr.Justice **M.V.MURALIDARAN**

Crl.R.C.No.201 of 2017

Anbazhagan

.. Petitioner

Vs.

State through
The Sub Inspector of Police,
Prohibition Enforcement Wing,
Thirupathur,
Vellore District.

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to call for the records dated 12.01.2018 in Crl.M.P.No.1 of 2018 in Crime No.419 of 2017 passed by the learned Judicial Magistrate No.II, Thirupathur, Vellore District.

For Petitioner :M/s.E.Kannadasan

For Respondent :Mr.G.Ramar
Government Advocate (Crl.side)

ORDER

The petitioner challenges the order of the learned Judicial Magistrate No.II, Thirupathur, Vellore District, passed in Crl.M.P.No.1 of 2018 dated 12.01.2018, rejecting the petition filed for return of vehicle.

2. The respondent has seized Acura 4G BSIV (Matgrey) bearing registration TN-83T-5013, belonging to the petitioner in connection with the case registered in Crime No.419 of 2017 on its file for offence under Sections 4(1)(aaa) 4(1-A) of Tamil Nadu Prohibition Act. The petitioner has moved Crl.M.P.No.1 of 2018 before the learned Judicial Magistrate No.II, Thirupathur, Vellore District, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 12.01.2018 and hence, this revision.

3. Learned counsel for the petitioner would seek to impress upon this Court that a false case stands foisted upon the petitioner. This Court is now concerned with return of property, pure and simple.

4. Mr.G.Ramar, learned Government Advocate (Crl.side) submits that

the petitioner is the owner of the vehicle.

5. In the circumstances above stated and considering the fact that the petitioner is the owner of the vehicle as per copy of Registration certificate produced and following the decisions of the Hon'ble Apex Court in *Sunderbhai Ambalal Desai v. State of Gujarat (AIR 2003 Supreme Court 638)* and *General Insurance Council V. State of Andhra Pradesh in 2010 (3) Supreme Pg. 317*, this Court directs as follows:

The Acura 4G BSIV (Matgrey) bearing registration TN-83T-5013 shall be placed in the custody of the petitioner after complying with the following:

i) The lower Court shall cause photographs of the vehicle to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with;

ii) The vehicle shall then be returned to the petitioner, without imposition of any conditions;

iii) the petitioner shall deposit a sum of Rs.30,000/- before the learned Judicial Magistrate No.II, Thirupathur, Vellore District, within a period of one week from the date of receipt of a copy of this order.

6. The above order is not determinant of the ownership or other rights in respect of the vehicle.

M.V.MURALIDARAN J.,

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7. The petitioner is directed not to alter the ownership of the vehicle till the disposal of the Crime No.419 of 2017 on the file of the respondent Police.

8. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate No.II, Thirupathur, Vellore District, passed in Crl.M.P.No.1 of 2018, dated 12.01.2018, is set aside.

02.03.2018

Index:yes/no

Internet:yes/no
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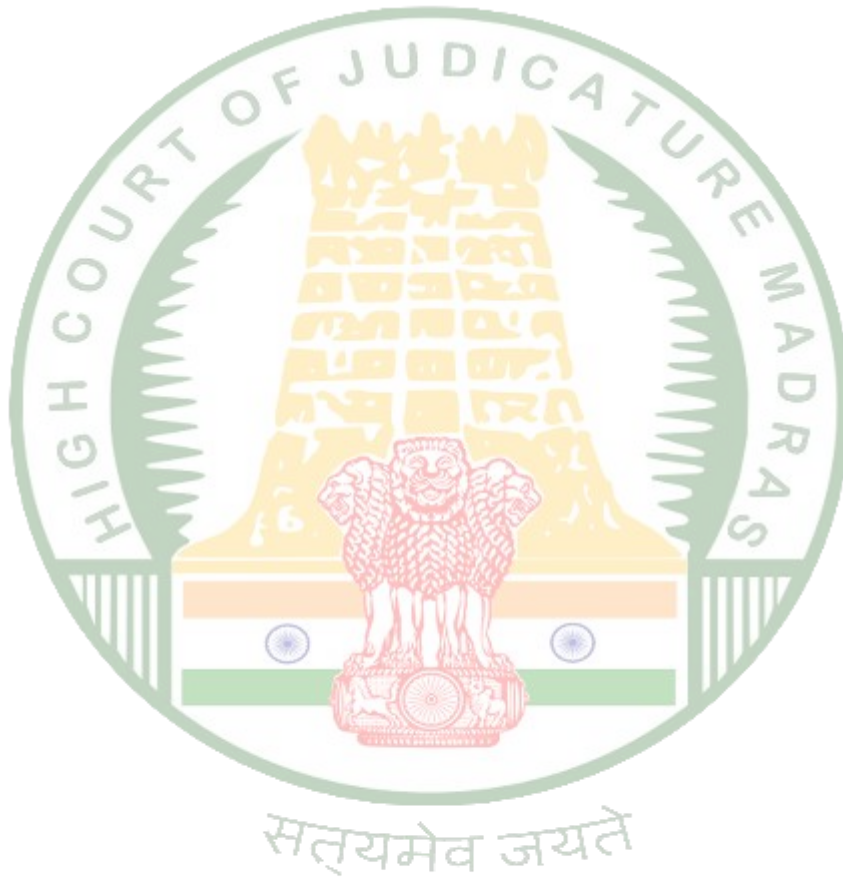
To

1.The learned Judicial Magistrate No.II,
Thirupathur, Vellore District.

2.The Sub Inspector of Police,
Prohibition Enforcement Wing,
Thirupathur,
Vellore District.

3.The Government Advocate,
High Court, Chennai.

Pre-Delivery order made in
Crl.R.C.No.201 of 2018



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