

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.3374 of 2017

Kumar

.. Petitioner

Vs

State by Station House Officer,
Thiruvennainallur Police Station,
Thiruvennainallur,
Villupuram District.

... Respondent

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order passed by the Principal District and Sessions Judge, Villupuram in unnumbered C.R.P.dated 11.11.2016 whereby the petition was returned as not maintainable as against the order passed by the learned Judicial Magistrate No.II, Ulundurpet in C.M.P.No.6622 of 2015 dated 06.11.2015.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to set aside the order passed by the Principal District and Sessions Judge, Villupuram in unnumbered C.R.P. dated 11.11.2016 whereby the petition was returned as not maintainable as against the order passed by the learned Judicial Magistrate No.II, Ulundurpet in C.M.P.No.6622 of 2015 dated 06.11.2015.

2.The case of the petitioner is that he owns a Tata Tavera Car bearing Regn.No.TN-72-M-9192 and he used to hire that car for his livelihood. On 17.12.2014, when the car was running near Ilanthirai Village, since there was a smoke in the engine and he could not get it repaired immediately, he parked the vehicle at the extreme edge of the road and came to Chennai to get a mechanic for repair of the vehicle. When he went on the next day along with the mechanic, his car was missing. When enquired, the villagers told him that the respondent police had taken away the car. The petitioner also went to the respondent police station and demanded to return the vehicle by showing the relevant records, but his request was refused on the ground that the said vehicle was used to transport illicit liquor. He preferred an

application before the learned Judicial Magistrate No.II, Ulundurpet, in C.M.P.No.6622 of 2015 and the same was dismissed on 06.11.2015 on the ground that confiscation proceedings has been completed; that the vehicle was sold through auction and that the petitioner has filed the application belatedly. He preferred a Civil Revision petition before the Principal District and Sessions Judge, Villupuram, and the same was returned as not maintainable by a docket order dated 11.11.2016, on the ground that the vehicle has already been confiscated. Hence the present Criminal Original Petition.

3.The learned counsel for the petitioner submitted that the police have no power to confiscate the vehicle without prior notice to the owner of the vehicle. He further submitted that the police authorities has no power to sell the vehicle without prior permission of the Magistrate concerned. He also submitted that the action of the police authorities is illegal, as there is no iota of evidence to show that the contraband was transported through the vehicle of the petitioner in question. Stating so, the learned counsel for the petitioner prayed for quashing the impugned order as well as the order passed by the Trial Court.

4.Mr.C.Emalias, learned Additional Public Prosecutor took notice for the respondent and submitted that once confiscation proceedings is completed and the vehicle has been sold through auction, there is no question of returning the vehicle to the petitioner.

5.Heard the learned counsel on either side.

6.According to the petitioner, Tata Tavera Car bearing Regn.No.TN-72-M-9192 belonging to him, was seized by the respondent police on 17.12.2014. When the police refused to return the vehicle, he approached the Trial Court for return of the vehicle at the fag end of the year 2015, and the Trial Court has dismissed his application on 06.11.2015 on the ground that confiscation proceedings has been completed and that the petitioner has filed the application belatedly. The Trial Court has correctly observed that the petitioner has filed the application belatedly and dismissed the application. Thereafter, he proceeded to file a Civil Revision Petition, that too belatedly before the Lower Appellate Court on 01.11.2016, ie., about a period of one year and the same was dismissed as not maintainable. Once the confiscation proceedings is completed and the vehicle has been sold through auction, the vehicle cannot be returned to the petitioner. Only because of this reason, the Lower Appellate Court has returned the petition filed by the petitioner in the C.R.P. as not maintainable, without even numbering, which according to this Court, is in accordance with law and the same does not require any interference.

7.In view of the foregoing reasons, the Criminal Original Petition is dismissed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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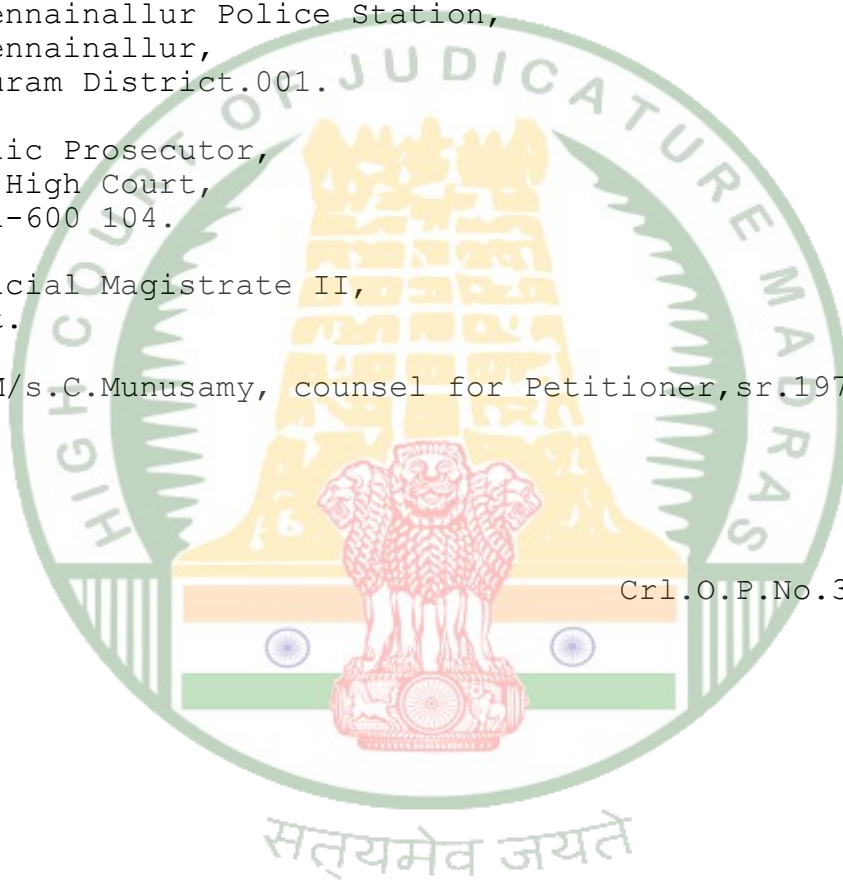
1.The Station House Officer,
Thiruvennainallur Police Station,
Thiruvennainallur,
Villupuram District.001.

2.The Public Prosecutor,
Madras High Court,
Chennai-600 104.

3.The Judicial Magistrate II,
Ulundurpet.

+1 cc to M/s.C.Munusamy, counsel for Petitioner,sr.19710.

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