

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 04.08.2017****CORAM****THE HONOURABLE MR.JUSTICE R. SURESH KUMAR****Crl.RC.No.994 of 2017**

Pandiyarasa @ Pandiyarasa ... Petitioner

-Vs-

State by
The Inspector of Police,
PEW, Namakkal,
Namakkal District. ... Respondent

Criminal Revision Case is filed under Section 397 and Section 401 of the Code of Criminal Procedure to set aside the order passed by the learned Judicial Magistrate No.II, Namakkal, in Crl.M.P.No.6545 of 2016 dated 03.01.2017 in Crime No.635 of 2016 on the file of the respondent police and return the vehicle viz., Ford Fiesta Car, bearing Registration No.TN-73-5050 to the petitioner.

For Petitioner : Mr.P.Babu

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

JUDGMENT

This Criminal Revision Case has been filed against the order passed in Crl.M.P.No.6545 of 2016 by the learned Judicial Magistrate No.II, Namakkal, dated 03.01.2017.

2.The petitioner herein has approached the learned Magistrate Court, by filing a Petition under Section 451 of the Code of Criminal Procedure, seeking for return of properties / interim custody of the vehicle namely, Ford Fiesta Car, bearing Registration No.TN-73-5050.

3.The said petition was rejected by the learned Magistrate on the ground that the said vehicle was produced by the petitioner only pursuant to the conditional order passed by the learned Principal Sessions Judge, Namakkal, while granting anticipatory bail to the petitioner by order dated 17.11.2016 in Crl.M.P.No.1196 of 2016 on the file of the said Sessions Court. Since the vehicle was entrusted only pursuant to the conditional order passed by the Sessions Court, the same cannot be modified

by way of allowing the said petition filed by the petitioner under Section 451 of Cr.P.C. As the Magistrate had stated the reason that if the said petition is considered and allowed, that would be violative of condition imposed by the Sessions Court, for which the Magistrate had stated that, she does not have the power.

4.I have heard Mr.P.Babu, learned counsel appearing for the petitioner as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that it is a condition imposed by the Sessions Court, while considering the grant of anticipatory bail to the petitioner and if at all, pursuant to the said condition, the petitioner had entrusted the vehicle and if he wants to return the said vehicle for his custody, he can very well approach the concerned Sessions Court, seeking modification of the conditional order passed by the Sessions Court by filing appropriate petitions in the manner known to law.

6.I have considered the said submissions made by the learned Additional Public Prosecutor as well as the submissions made by the learned counsel appearing for the petitioner.

7.It is true that the vehicle in question was entrusted by the petitioner only pursuant to the conditional order passed by the Court of Sessions, at the time of granting anticipatory bail to the petitioner. Once the vehicle has been entrusted only to comply with the condition imposed by the Sessions Court, certainly, the same cannot be modified by interference of the Court i.e., the learned Magistrate, before whom the present petition has been filed by invoking Section 451 of Cr.P.C. Therefore, the reason advanced by the learned Magistrate, rejecting the said petition through the impugned order, in the opinion of this Court, is perfectly valid and does not require any interference by this Court.

8.Further, it is submitted by the learned counsel appearing for the petitioner that pursuant to the condition imposed by the Sessions Court, the vehicle was entrusted and since it is a motor

vehicle, which has been kept idle in the custody of the respondent police and also exposed to sun and rain, it is no doubt, the condition of the vehicle would be deteriorated day by day in such event. The learned counsel appearing for the petitioner also submitted that whatever further conditions to be imposed on the petitioner in lieu of the vehicle, the petitioner is ready and willing to abide such conditions.

9. Insofar as the said contention made by the learned counsel appearing for the petitioner is concerned, the same can be considered only by the Court of Sessions and if the petitioner approaches with proper petition in the manner known to law, certainly, the learned Sessions Judge would consider the fact and pass appropriate orders.

For all these reasons, this Court is not inclined to interfere with the impugned order passed by the learned Magistrate. Therefore, this Criminal Revision Case fails and accordingly, the same is dismissed, However, it is made clear that once the petitioner approaches the Court of Sessions with appropriate petition either to modify the condition imposed by the said

Sessions Court, at the time of granting anticipatory bail to the petitioner, or for releasing of the vehicle in the manner known to law, the same can be considered by the concerned Sessions Judge as expeditiously as possible and pass a reasoned order in accordance with law on such petition.

With these observations, the Criminal Revision Case is dismissed.

04.08.2017

Internet : Yes
Index : yes/No

mps

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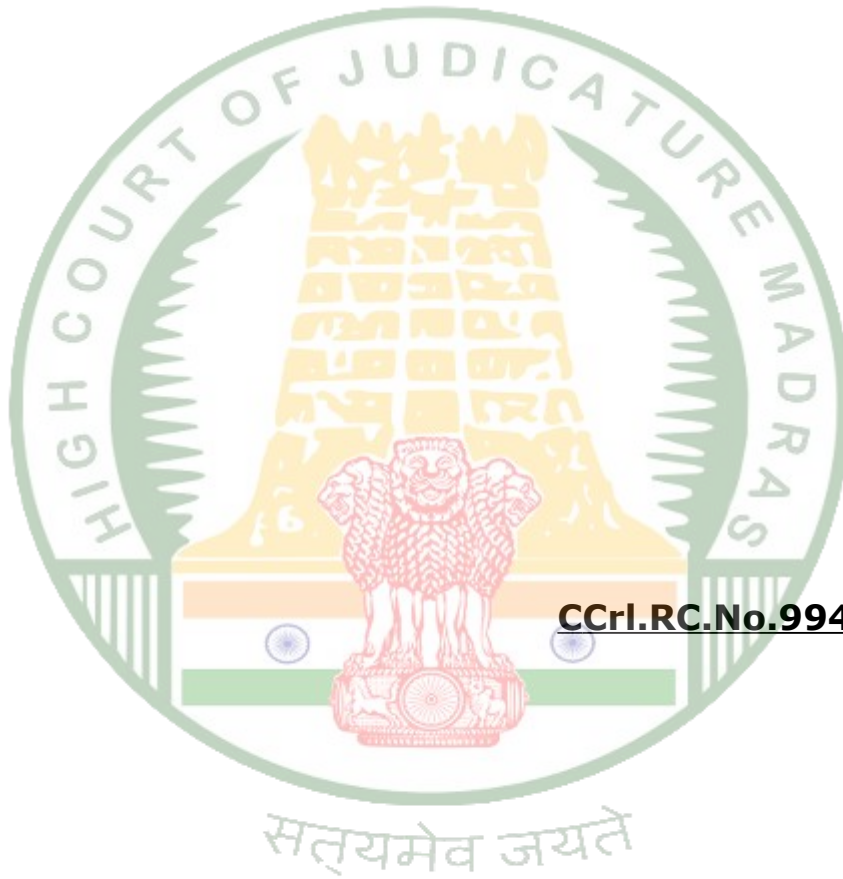
1.The Judicial Magistrate No.II,
Namakkal.

2.The Inspector of Police,
PEW, Namakkal,
Namakkal District.

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R. SURESH KUMAR, J,

mps



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