

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM :
THE HON'BLE MR.JUSTICE M.S.RAMESH
Crl.O.P.No.21197 of 2017

Selvi

.... Petitioner

Vs.

The State rep.by
Station House Officer,
Prohibition Enforcement Wing, Gingee,
Villupuram District

.. Respondent

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C. praying to set aside the order dated 25.07.2016 rendered by the learned Principal District Judge, Villupuram, Villupuram District in Crl.Revision Petition No.35/2016 by confirming the order passed by the learned Judicial Magistrate, No.I, Villupuram, Villupuram District in Crl.MP.No.5097/2016 dated 16.11.2016.

For Petitioner : M/s.E.Kannadasan
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

O R D E R

The petitioner challenges the order of the learned Principal District Judge, Villupuram, Villupuram District in Crl.Revision Petition No.35/2016 which confirms the order in Crl.MP.No.5097/2016 dated 16.11.2016, rejecting the petition filed for return of vehicle.

2. The petitioner submitted that when the petitioner was proceeded from Villupuram to Gingee, the respondent police has seized the petitioner's Maruti Suzuki Ertiga Car bearing Registration No.TN-32-AC-4528, on 15.09.2017 and registered a case in Crime No. 423 of 2016 for offence under Section 4(1) (aaa) 4(1-A) of Tamil Nadu Prohibition Act.

3. In this connection, the petitioner has moved a Petition before the learned Judicial Magistrate No.1, Villupuram, Villupuram District which was dismissed and the petitioner seeks revision in Crl.RP.No.35/2016 before the learned Principal District Judge, Villupuram, Villupuram District, which was also dismissed by confirming the order of the lower court on

25.07.2017, on the ground that the petitioner has filed this petition only after receipt of the notice u/s.14 (4) of TNP Act, pending confiscation proceedings and hence, this Petition.

4. 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.

5. In the circumstances above stated 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 Maruti Suzuki Ertiga Car bearing Registration No.TN-32-AC-4528, 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, who shall be at liberty to deal with the same in such manner as considered appropriate.

iii) On production of letter of affidavit undertaken by the petitioner to produce the vehicle.

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

7. With the above observations, the Criminal Original Petition is allowed. The order dated 25.07.2016 rendered by the learned Principal District Judge, Villupuram, Villuppuram District in Crl.Revision Petition No.35/2016 by confirming the order passed by the learned Judicial Magistrate, No.I, Villupuram, Villupuram District in Crl.MP.No.5097/2016 dated 16.11.2016, is set aside.

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Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gv/rkp

To

1.The Station House Officer,
Prohibition Enforcement Wing, Gingee,
Villupuram District

2. The Principal District Judge, Villupuram, Villuppuram
District .

3. Judicial Magistrate, No.I, Villupuram,
Villupuram District

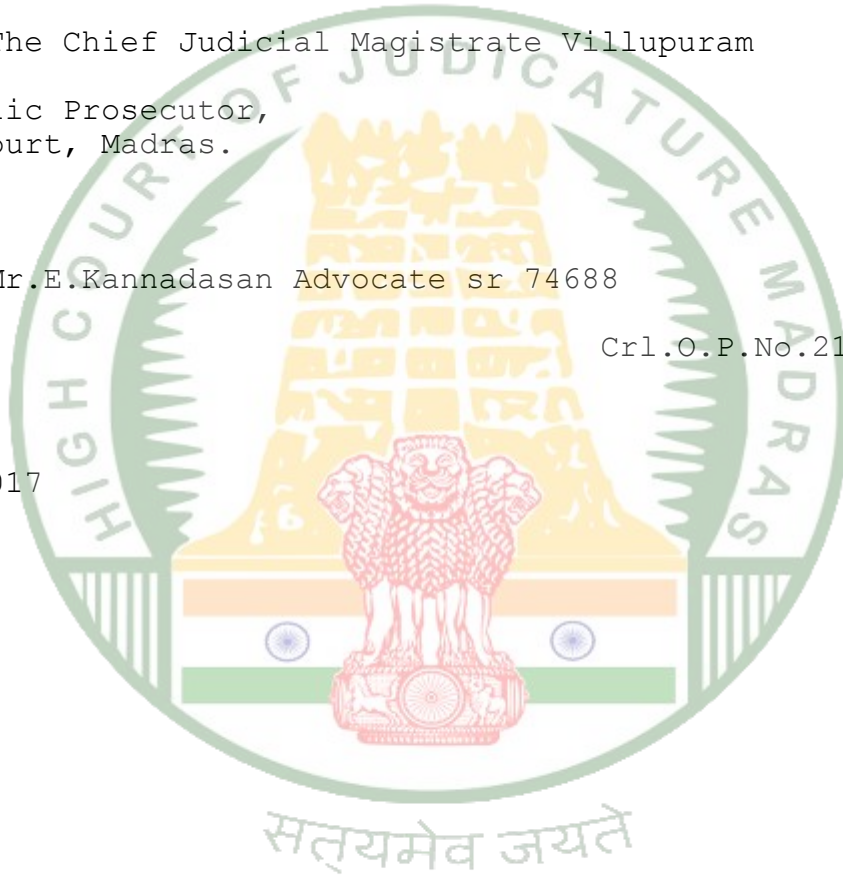
4.D-Thro The Chief Judicial Magistrate Villupuram

5.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.E.Kannadasan Advocate sr 74688

Crl.O.P.No.21197 of 2017

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