



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C. (MD) .No.557 of 2017

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Prabhusiva

...Petitioner/Petitioner

Vs

State
rep.by the Inspector of Police,
Mayanur Police Station,
Karur District.
(Cr.No.266/2016)

...Respondent/Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 of Cr.P.C. against the order dated 15.03.2017 passed in Cr.M.P.No.908 of 2017 by the learned Judicial Magistrate No.II, Kulithalai and set aside the same and further direct the learned Judicial Magistrate No.II, Kulithalai to grant interim custody of the Toyota Innova Car bearing Regn.No.TN58 AD 9500 to the petitioner.

For petitioner : Mr.S.Ramu
For Respondent : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

O R D E R

The petitioner, claiming to be the owner of the vehicle bearing Regn.No.TN58 AD 9500, filed a petition, seeking return of the vehicle, and it was dismissed by the learned Judicial Magistrate No.II, Kulithalai. Against which, the present criminal revision case has been filed.

2.The case of the petitioner in brief is as follows:

The petitioner is the owner of the TATA Innova Car bearing registration number TN 58 AD 9500 and he wants to sell the vehicle and entrusted the vehicle to one mediator association; in turn, the vehicle was entrusted to the fifth accused in Cr.No.266/2016. While the vehicle was in the custody of fifth accused, a crime has been registered for the offence under Sections under Sections 147, 148, 342, 448, 398, 364(A), 120(b), 506(ii) of I.P.C.r/w Section 3 of TNPPDL Act, 1992. During investigation the vehicle was seized on the ground that the vehicle was used in the crime. Subsequently, the petitioner came to know the same. Therefore, he filed a petition, seeking return of the vehicle and that petition was dismissed by the Court below. Challenging the same, this revision has been filed.



3.I have heard Mr.S.Ramu, the learned Counsel appearing for the petitioner and Mr.C.Mayilvahan Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.

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4. The learned counsel appearing for the petitioner submitted that the petitioner is not an accused in the criminal case. Since he is the owner of the vehicle, the vehicle has been entrusted to the Mediator Association for selling; in turn, that was used by A5 and involved in this occurrence. He is innocent owner of the vehicle. The vehicle was seized on 04.08.2016 and for nearly one year, the vehicle is under the custody of the respondent police.

5.Considering the fact that the vehicle has been seized on 04.08.2016 and it is in the custody of respondent police and the value of the vehicle would be deteriorated, if the same is exposed to sun and rain, Hence, I am inclined to set aside the impugned order, passed by the learned Judicial Magistrate, No.II, Kulithalai in CrI.M.P.No.908 of 2017, dated 15.03.2017, and this **Criminal Revision Case stands allowed.**

6.The petitioner's vehicle viz., TATA Innova Car bearing registration number TN 58 AD 9500 is directed to be handed over to the revision petitioner. The Court below is directed to return the vehicle to the petitioner herein with the following conditions:-

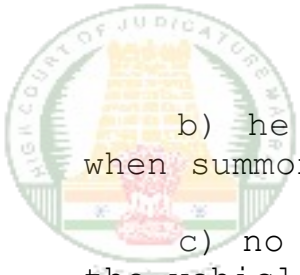
i) The Petitioner shall produce proof of ownership of the vehicle;

ii) The Petitioner shall execute a bond for a sum of Rs.5,000/-(Rupees Five thousand only) with two sureties to the satisfaction of the learned Judicial Magistrate, No.II, Kulithalai;

iii) The petitioner shall surrender the R.C.Book and the learned Judicial Magistrate, No.II, Kulithalai is at liberty to return the R.C.Book for renewal of the registration or for insuring the vehicle. The R.C Book can be obtained from the court by filing a petition and after the accomplishment of the purpose, the same should be returned to the court; and

iv) the petitioner shall also file an affidavit of undertaking to the effect that:

a) he will not alienate the vehicle without obtaining an order from the learned Judicial Magistrate, No.II, Kulithalai;



b) he will produce the said vehicle before the Court as and when summoned to produce the same; and

c) no major alteration excepting the necessary repairs to make the vehicle road worthy shall be made.

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Sd/-

Assistant Registrar(AE)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.The Judicial Magistrate No.II, Kulithalai.

2.The Chief Judicial Magistrate, Karur District.

3.The Inspector of Police,
Mayanur Police Station,
Karur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.S.RAMU, Advocate SR.No.66057

vs/lis

MAS/SKN-RSK/SAR2:01.08.2017:3P-6C

Cr1.R.C.(MD).No.557 of 2017

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