

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.02.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN
Crl.R.C.No.149 of 2018

Venkatachalapathy

.. Petitioner

Vs.

State represented by its
The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
Crime No.245 of 2017

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order passed by the learned Judicial Magistrate
No.II, Chidambaram, in Crl.M.P.No.02 of 2018 in Crime No.245 of
2017 dated 08.01.2018 and set aside the same.

For Petitioner : M/s.G.Nirmalkrishnan
For Respondent : Mr.G.Ramar,
Government Advocate (Crl.side)

O R D E R

The petitioner challenges the order of the learned Judicial
Magistrate No.II, Chidambaram, passed in Crl.M.P.No.02 of 2018
dated 08.01.2018, rejecting the petition filed for return of
vehicle.

2. The respondent has seized a Mahindra 575 DI Tractor and
Tipper vehicle bearing registration TN-91B-7074, Chassis
No.NKZB01025, Engine No.NKZB01025 belonging to the petitioner in
connection with the case registered in Crime No.245 of 2017 on
its file for offence under Sections 379 IPC r/w 21(1) of M&M
(D&R) Act. The petitioner has moved Crl.M.P.No.2 of 2018 before
the learned Judicial Magistrate No.II, Chidambaram, seeking
return of the vehicle. Such petition came to be dismissed under
orders of the Court below dated 08.01.2018 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 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 Mahindra 575 DI Tractor and Tipper vehicle bearing registration TN-91B-7074, Chassis No.NKZB01025, Engine No.NKZB01025 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, Chidambaram 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.

7. The petitioner is directed not to alter the ownership of the vehicle till the disposal of the Crime No.245 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, Chidambaram, passed in CrI.M.P.No.02 of 2018, dated 08.01.2018 is set aside.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ub

To

1.The Judicial Magistrate No.II,
Chidambaram.

2.The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.

3. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.G.NIRMAL KRISHNAN, Advocate, S.R.No. 12576
(08.03.2018)

Crl.R.C.No.149 of 2018

TR(01/03/2018)



WEB COPY