

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.20021 of 2018

***Parthasarathy**

.. Petitioner

Vs

The State, represented by
The Inspector of Police,
Kanathur Police Station,
***Chennai District.**

(Crime No.437 of 2018)

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to set aside the order in C.M.P.No.4242/2018 dated
03.08.2018 on the file of the Judicial Magistrate Court,
Alanthur, Chennai and to return the vehicle registered bearing
No.TN05-BR 3330 in Crime No.437 of 2018 pending investigation on
the file of the Inspector of Police, Kanathur Police Station.

For Petitioner : Mr.S.Noorudeen

For Respondent : Mr.C.Raghavan
Government Advocate

ORDER

This petition has been filed to set aside the order in
C.M.P.No.4242/2018 dated 03.08.2018 on the file of the Judicial
Magistrate Court, Alanthur, Chennai and to return the vehicle
registered bearing No.TN05-BR 3330 in Crime No.437 of 2018
pending investigation on the file of the Inspector of Police,
Kanathur Police Station.

2. The respondent police has registered a case in Crime
No.437/2018 on 24.06.2018 under Sections 148, 353, 307 and 506
(ii) IPC and Section 25 (1B) (a) of the Arms Act against one
C.D.Mani and his group.

3. It is the case of the police that the said C.D.Mani
travelling in Mahindra XUV 500 car bearing registration No.TN05
BR 3330 opened fire at the police. In the course of the
investigation in the said case, the said car used by the accused
has been seized and produced before the Judicial Magistrate,
Alandur. Parthasarathy, the father of C.D.Mani, filed a

C.M.P.No.4242 of 2018 under Section 451 of Cr.P.C., for interim custody of the said property, which has been dismissed by order dated 03.08.2018, challenging which, the father of C.D.Mani, viz., Parthasarathy is before this Court.

4. Heard Mr.S.Noorudeen, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. Side) for the respondent.

5. The learned counsel for the petitioner/Parthasarathy placed strong reliance on the judgment of the Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat* [(2002) 10 SCC 290] and submitted that the trial Court ought to have followed the said judgment and returned the car to the petitioner.

6. Per contra, the learned Government Advocate (Crl. Side) refuted the contentions.

7.This Court gave its anxious consideration to the rival submissions.

8. On a reading of the impugned order, it is seen that the trial Court has dismissed Parthasarathy's petition on the ground that the R.C.Book is not in his name, but in the name of C.D.Mani.

9. The learned counsel for the petitioner would submit that C.D.Mani is under detention and therefore, on behalf of him, his father has filed the petition under Section 451 Cr.P.C.

10. In the opinion of this Court, the order passed by the trial Court does not suffer from any infirmity, inasmuch as, the R.C.Book of the car in question is in the name of C.D.Mani and therefore, the trial Court was justified in refusing to hand over the interim custody of the car to Parthasarathy.

In the result, this petition is dismissed.

Sd/-

Assistant Registrar(CS IX)

**Amended as per order of this
court dated 12/09/2018**

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate Court,
Alanthur, Chennai.

To be Substituted to
The order already
despatched on 03/09/2018

2. The Inspector of Police,
Kanathur Police Station,
Salem District.

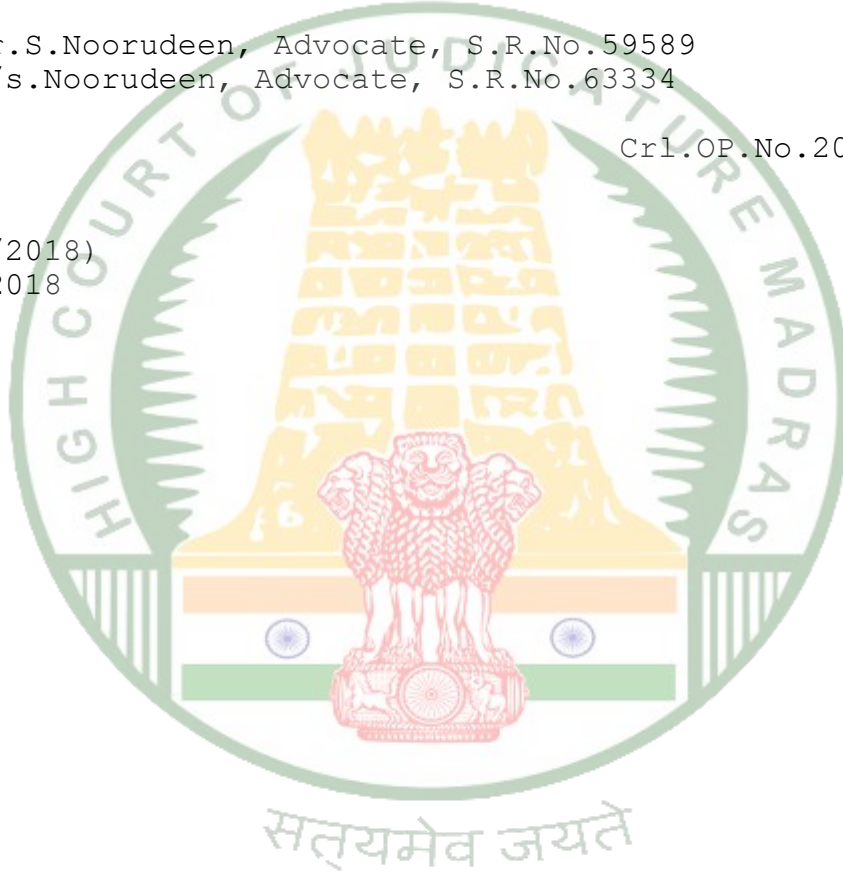
3. The Public Prosecutor,
High Court of Madras.

+2cc to Mr.S.Noorudeen, Advocate, S.R.No.59589

+2cc to M/s.Noorudeen, Advocate, S.R.No.63334

Cr1.OP.No.20021 of 2018

GSP(31/08/2018)
nr 12/09/2018



WEB COPY