

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Crl.R.C.No.5 of 2018

K.Sakthi Balaji

.. Petitioner

Vs.

1.Nataraj @ Vijayakumar
2.Radha @ Radhakrishnan

.. Accused

State rep. by
The Sub Inspector of Police,
Erode G.H.Police Station,
Erode.

.. Respondents/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to set aside the order passed in C.M.P.No.6341 of 2017 dated 20.12.2017 on the file of the learned Judicial Magistrate No.II, Erode and direct to release the vehicle, bearing Registration No.TN-66J-9313 Mercedes Benz/B Class/B180 Sports to the revision petitioner, which was seized in Crime No.12 of 2017 by the respondent, Erode G.H.Police Station.

For Petitioner : M/s.A.Tamilarasan

For Respondent : Mr.G.Harihara Arun Soma Shankar (for R3)
Government Advocate (Crl.side)

O R D E R

The petitioner challenges the order of the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore District, passed in C.M.P.No.6341 of 2017 dated 20.12.2017 and seeks a direction to release the vehicle, bearing Registration No.TN-66J-9313 Mercedes Benz/B Class/B180 Sports to the revision petitioner, which was seized in Crime No.12 of 2017 by the respondent, Erode G.H.Police Station.

2. The defacto complainant has given a complaint which was taken on file in Crime No.12 of 2017. Later on, the vehicle was seized and it is in custody of Respondent/Police.

3. The petitioner viz., Mr.K.Sakthi Balaji has filed C.M.P.No.6341 of 2017 for return of vehicle. Admittedly, the petitioner is the third party in the said complaint. But, without impleading the defacto-complainant, the petitioner has filed the petition and hence the said petition was dismissed by the learned Judicial Magistrate No.II, Erode. The said order is challenged in this revision. No interference is warranting by this Court in the said order, but any how, the petitioner is directed to file fresh petition by impleading the defacto complainant, the matter is remand back for fresh consideration.

4. In the result, this Criminal Revision Petition is allowed by setting aside the order by giving liberty to the petitioner to file a fresh application before the learned Judicial Magistrate No.II, Erode by impleading the defacto-complainant. The learned Magistrate No.II, Erode, is directed to issue notice to both parties including the defacto complainant and dispose of the same on merits within a period of one month thereafter.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Judicial Magistrate No.II,
Erode.

2.The Sub Inspector of Police,
Erode G.H.Police Station,
Erode.

3.The Government Advocate (Crl.Side),
High Court, Chennai.

+1cc to Mr.A.Tamilarasan, Advocate, S.R.No.14732

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RRK(19/03/2018)