

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2018

CORAM :

THE HON'BLE MR.JUSTICE M.S.RAMESH

Crl.O.P.No.27669 of 2017

Rajendiran

.. Petitioner

Vs.

State rep.by

The Inspector of Police,
Pennagaram Police Station,
Pennagaram,
Dharmapuri District.
(Cr.No.133 of 2013)

... Respondent

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C. praying to call for the records relating to the order passed by the Learned Judicial Magistrate, Pennagaram, Dharmapuri District in Crl.MP. No. 1861 of 2016 dated 11.09.2017 and set aside the same, consequently direct the learned judge to return the vehicle (TVS APACHE - Engine No. 0E6BB2081195, Black and Yellow color) of the petitioner to him in Crime No.133 of 2013 on the file of the respondent police.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mrs.Kritika Kamal.P.
Government Advocate (Crl.Side)

O R D E R

The petitioner challenges the order of the Judicial Magistrate, Pennagaram, Dharmapuri District in Crl.MP. No. 1861 of 2016 dated 11.09.2017, rejecting the petition filed for return of vehicle.

2. The petitioner submits that he is the owner of the vehicle (TVS APACHE - Engine No.0E6BB2081195, Black and Yellow Color) and his son viz., Mani @ Manivasagam who was travelling from his house to Pennagaram on 06.05.2013 was arrested by the respondent police along with his vehicle for the alleged offences under section 307 IPC r/w Section 3 of TNPPDL Act and registered a case in Crime No. 133 of 2013. The petitioner has further submitted that his son has not been involved in any

political activities and due to some local dispute, he was implicated as accused.

3. In this connection, the petitioner has moved a Petition before the learned Judicial Magistrate, Pennagaram, seeking return of the vehicle. Such petition was dismissed by the learned Judge without considering the undertaking given by the petitioner that he would register the vehicle immediately after getting orders.

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 TVS APACHE - Engine No.0E6BB2081195, Black and Yellow Color 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.

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

7. With the above observations, the Criminal Original Petition is allowed. The order of the learned Judicial Magistrate, Pennagaram made in Cr.MP. No. 1861 of 2016 dated 11.09.2017 is set aside.

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Sd/-
Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

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To

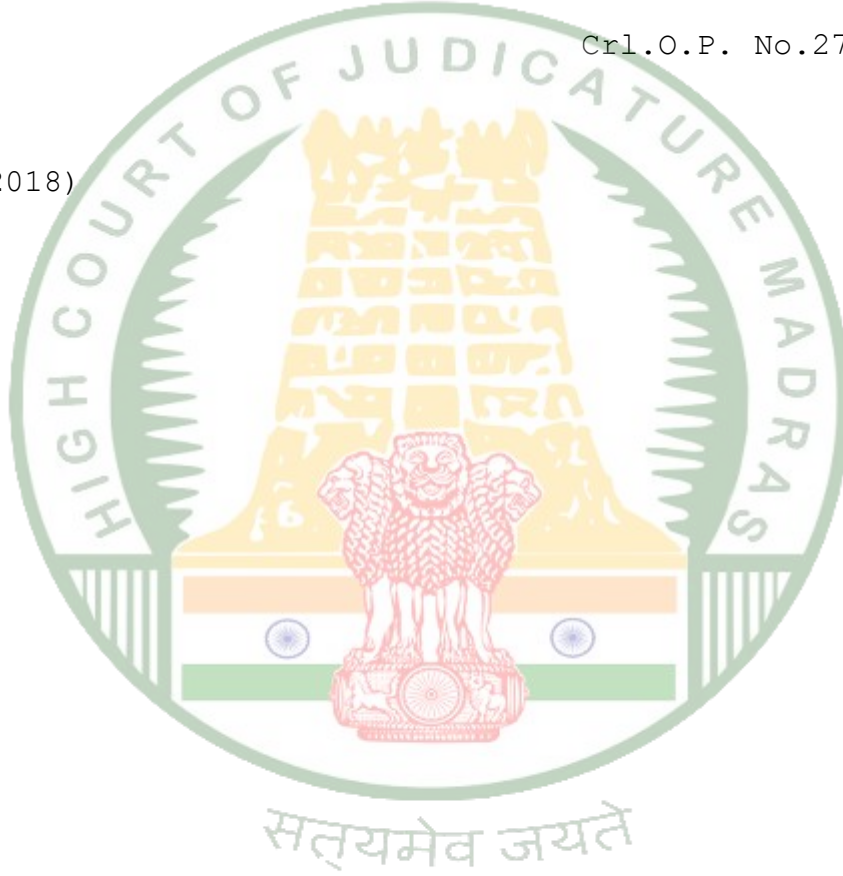
1. The Inspector of Police,
Pennagaram Police Station,
Pennagaram,
Dharmapuri District.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Jothimanian, Advocate SR.No.2530

Cr1.O.P. No.27669 of 2017

GN(05/02/2018)



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