

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.10.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1158 of 2018

M.Narayanachami

... Petitioner

Vs.

State Rep by Inspector of Police,
PEW Police,
Hosur,
Krishnagiri District.

... Respondent

Prayer:

Petition filed under Section 397 and 401 of Cr.P.C. praying to set aside the order passed in Crl.M.P.No.3155 of 2018 dated 18.09.2018 on the file before the Judicial Magistrate Court-II, Hosur and to direct the court below to return the property in Crime No.536 of 2018 on the file of respondent.

For Petitioner : Mr.M.P.Saravanan

For Respondent : Ms.S.Thankira

Government Advocate (Criminal Side)

O R D E R

This revision challenges the order of learned Judicial Magistrate No.II, Hosur, passed in Crl.M.P.No.3155 of 2018 on 18.09.2018 dismissing the petition seeking return of vehicle.

2. Respondent has seized the vehicle viz., Maruthi Zen bearing Registration No.KA-03-Z-0953 belonging to petitioner, in connection with the case in Crime No.536 of 2018 for offences u/s.4(1)(a) of T.N.P.Act. Petitioner filed Crl.M.P.No.3155 of 2018 before the learned Judicial Magistrate No.II, Hosur seeking return of vehicle. Court below, under orders dated 18.09.2018, dismissed such petition. Hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl. Side].

4. Though this revision challenges the order of Court below dismissing the petition seeking return of vehicle, it is impressed upon this Court that Court below has dismissed such petition on the reasoning that the vehicle stands confiscated whereas, the factual position is that confiscation proceedings are pending.

5. In the circumstances above stated, this Court would set aside the order of the Court below negating the return of vehicle. This Court is of the considered view that no prejudice would be caused to the prosecution in the event of granting the relief of interim custody of the vehicle to petitioner. Learned Judicial Magistrate No.II, Hosur, is directed to return the vehicle viz., Maruthi Zen bearing Registration No.KA-03-Z-0953, to the petitioner on fulfilling the following conditions:

(i) the petitioner shall establish the ownership of the vehicle by producing necessary original certificates before respondent police and as well as before learned Magistrate and learned Magistrate on verification, shall retain the original documents, if necessary and cause forwarding thereof to the confiscating authority in the event of confiscation;

(ii) the petitioner shall not alienate the vehicle in any manner till adjudication is over;

(iii) the petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the confiscating authority; and

(iv) the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of CrI.M.P.No.3155 of 2018 before the learned Judicial Magistrate No.II, Hosur. If the case ends against the petitioner, the said amount may be appropriated in favour of the State.

6. The return of vehicle, however, is subject to confiscation proceedings pending before the appropriate authority. In the event of confiscation, the petitioner's rights shall be governed by the provisions of the T.N.Prohibition Act.

7. This Criminal Revision is allowed. The order of learned Judicial Magistrate No.II, Hosur, passed in CrI.M.P.No.3155 of 2018 on 18.09.2018, is set aside.

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Sd/-
Assistant Registrar(Cs IX)

//True Copy//

Sub Assistant Registrar

To

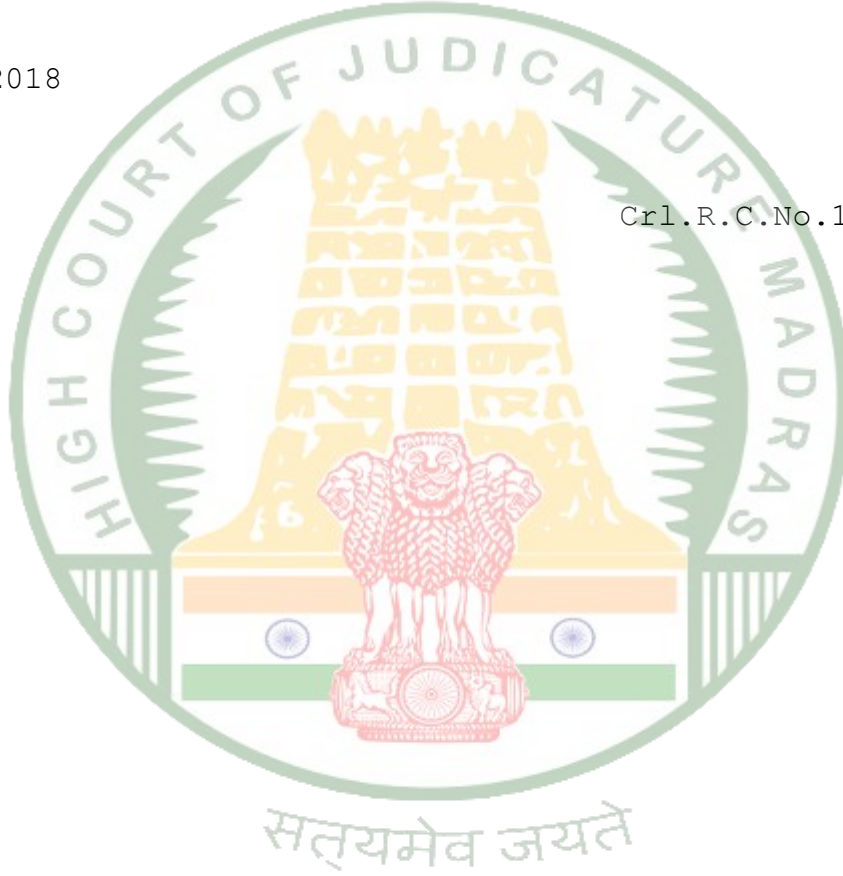
1.The Judicial Magistrate No.II, Hosur.

2.The Inspector of Police,
PEW Police,
Hosur,
Krishnagiri District

+lcc to Mr.M.P.Saravanan, Advocate SR.NO.74811

SS(CO)
sm:14.11.2018

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