

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.26682 of 2018

Daniel

.. Petitioner

Vs

1. The Superintendent of Police,
Kancheepuram District.

2. The Inspector of Police,
Mamallapuram Police Station,
Kancheepuram District.

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the Respondents to take the custody of the illegal possession of petitioner own car (Nissan Micra) Bearing Reg No.TN 22 CD 6212 from the Accused (Ideal Beach resort, Manager Named G.Mani) and hand over to the title owner of the car/Petitioner based on the CSR No.387 of 2018 dated 27.07.2018.

For Petitioner : Mr.L.Govindaraj

For Respondents : Mr.C.Raghavan
Government Advocate (Crl. Side)

O R D E R

This petition has been filed for a direction to the respondent police to take custody of the car that has been illegally taken away from the petitioner by an accused person.

2. The learned counsel for the petitioner would submit that the petitioner gave a complaint on 27.07.2018 before the 2nd respondent and informed the 2nd respondent that his car had been illegally taken by an accused person towards an alleged money dispute. The respondent police on receipt of the complaint have also given a CSR receipt on the very same day. However, subsequently no action was taken. Therefore, the petitioner made a representation to the 1st respondent on 03.10.2018. Even thereafter, since no action has been taken, the petitioner has approached this Court seeking for the above said relief.

3. In the considered view of this Court, the relief as sought for by the petitioner cannot be granted at this stage. The respondent police will have to necessarily register an FIR, if they want to take a custody of the car. Thereafter, the car has to be handed over to the concerned Court and the petitioner has to approach the concerned Court seeking for return of car. Without following this procedure, the petitioner cannot directly seek for a direction to the respondent police to secure the car and handover the same to the petitioner.

4. Admittedly in this case, the CSR is pending and no action has been taken till date. The petitioner has also made a representation to the 1st respondent, and in spite of same, no FIR has been registered.

5. In view of the judgment of the Hon'ble Division Bench of this Court in Crl.O.P.(MD) No.13681 of 2018 and batch of cases, dated 20.09.2018, a petition of this nature is not maintainable before this Court. Liberty is granted to the petitioner to work out his remedy in accordance with the guidelines given by the Hon'ble Division Bench in the decision referred supra.

6. With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

ssr/ub

To

1. The Superintendent of Police,
Kancheepuram District.

2. The Inspector of Police,
Mamallapuram Police Station,
Kancheepuram District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.L.Govindaraj, Advocate SR.No.78190

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RK(CO)

GMV(12/12/2018)