

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.28208 of 2018

Chattraram

... Petitioner

Vs.

State rep. by

The Sub-Inspector of Police,
K-11, C.M.B.T. Police Station,
Chennai.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to modify the condition imposed in Crl.M.P.No.5714 of 2018 in Crime No.985 of 2018 dated 15.11.2018 on the file of learned V Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr. S.Rajanikanth
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking for modification of the condition imposed by the Court below, while passing an order for return of property filed under Section 451 of Cr.P.C by the petitioner.

2. The petitioner is the owner of the car. The said car was involved in an offence and an FIR has been registered by the respondent police under Section 328 of IPC r/w Section 9(ii) of Tamil Nadu Prohibition of Smoking and Spitting Act 2002. The petitioner is not an accused in the said FIR.

3. The petitioner filed a petition seeking for return of the car, in his capacity as a owner of the car. The Court below while allowing the petition has imposed a condition that the petitioner should execute a bond for a sum of Rs.5,00,000/- with two sureties each for a like sum and the Court below has also further stated that the surety shall be a owner of the movable and immovable property worth more than Rs.5,00,000/-.

4. In the considered view of this Court, the said condition imposed by the Court is clearly onerous and the Court below

need not have been imposed such a stringent condition in the facts of the case. The petitioner is admittedly not an accused and the car is not involved in any major offence. Therefore, a condition of this nature is not warranted in the facts of this case. Therefore, this Court has to necessarily modify the condition imposed by the Court below. The first condition imposed by the Court below is modified as follows :

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum.

The other conditions that have been imposed by the Court below shall stand as this.

5. In the result, this Criminal Original Petition is allowed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

lpp/vsa

To

1. The V Metropolitan Magistrate
Egmore, Chennai 8.

2. The Sub-Inspector of Police,
K-11, C.M.B.T. Police Station,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S. Rajinikanth, Advocate sr 82810.

सत्यमेव जयते

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SP(12/12/2018)

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