

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.28653 of 2018

V.Elangovan

.. Petitioner

Vs.

The State Rep by
The Station House Officer,
PE Wing, Tirukoilur Police Station,
Villupuram District.

..Respondent

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to direct the Judicial Magistrate Court, Sankarapuram/Trial Court in C.C.No.329 of 2013, to return to the petitioner the sum of Rs.1,50,000/- which is deposited pursuant to the order of this Court in Crl.R.C.No.1440 of 2013 dated 03.12.2013.

For Petitioner : M/s.Dharani Dharan

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

O R D E R

This petition has been filed seeking for a direction to the Judicial Magistrate Court, Sankarapuram, to return a sum of Rs.1,50,000/- which was deposit by the petitioner pursuant to the order by this Court in Crl.R.C.No.1440 of 2013.

2.The petitioner is the owner of the vehicle. This vehicle was seized by the respondent police, Thirukoilur Police Station, for an alleged transportation of illicit Spirit in the vehicle. The petitioner filed a petition seeking for return of vehicle. However, the said petition was dismissed. Challenging the same, the petitioner filed Crl.R.C.No.1440 of 2013 before this Court. This Court, on consideration of the facts and circumstances of the case, passed the following order:

"Therefore the Vehicle in question shall be released on condition that the petitioner

deposits a sum of Rs.1,50,000/- along with original RC.Book and the receipt for pleading the same for one year shall be produced before the trial Court and that he will not alienate or sell the vehicle and he is also directed to issue the RPAD registered notice to the concerned Registering Authority intimating that the RC Book has been produced before the competent forum. The respondent is directed not to proceed with the confiscation proceedings for four weeks and in the event of failure on the part of petitioner to comply with the above conditions, it is left open to the confiscation authority to pass appropriate orders"

3.Pursuant to the order passed by this Court, the petitioner complied with the condition imposed by this Court and also deposited a sum of Rs.1,50,000/- before the Court below. Thereafter, the main case was taken up for hearing in C.C.No.329 of 2013, by the Judicial Magistrate Court Sankarapuram. The case itself ended in acquittal, by Judgment, dated 11.01.2018. In the said Judgment, the Court below has made it very clear that the vehicle belonging to the petitioner, is no way connected with the alleged crime and therefore, the vehicle can be retained by the petitioner permanently.

4.The learned counsel for the petitioner would submit that after the final Judgment was passed in the proceedings, the petitioner filed a petition before the Court below on 28.08.2018, seeking for return of Rs.1,50,000/- deposited by the petitioner, pursuant to the order passed by this Court in CrI.R.C.No.1440 of 2013. That petition has now been returned by the Court below on the ground that the deposit was made only pursuant to the order passed by the High Court and only if a direction is given by the High Court, the petitioner will be permitted to withdraw the said amount. Hence, this petition has been filed before this Court.

5.From the above narration of facts, it is clear that the main case itself has ended in acquittal, by Judgment, dated 11.01.2018 and the Court below has given a categorical finding that the vehicle belonging to the petitioner is not involved in the alleged incident and the petitioner has also been permitted to retain the vehicle permanently in his capacity as the owner of the vehicle. Therefore, the amount that was deposited by the petitioner as a condition for release of vehicle, during the pendency of the case, has to be necessarily returned back to the petitioner.

6. In the result, this Criminal Original Petition is disposed of with a direction to the Judicial Magistrate, Sankarapuram, to permit the petitioner to withdraw a sum of Rs.1,50,000/-, deposited by him in C.C.No.329 of 2013. This exercise shall be completed by the Court below within a period of one month from the date of memo filed by the petitioner.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

stm
To

- 1.The Judicial Magistrate,
Sankarapuram.
- 2.The Station House Officer,
PE Wing, Tirukoilur Police Station,
Villupuram District.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Dharanidharan, Advocate Sr.84521

Cr1.O.P.No.28653 of 2018

srg(11/12/2018)

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