



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2018

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.1180 of 2018

Selvaraj

... Petitioner/Petitioner

-vs-

State represented by  
The Inspector of Police,  
Pudukkottai Police Station,  
Thoothukudi District.  
(Crime No.363 of 2017)

... Respondent/Respondent

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to set aside the Return Order dated 22.11.2017 passed in Unnumbered Cr.M.P. of 2017, on the file of the learned Judicial Magistrate No.III, Thoothukudi, Thoothukudi District and consequently direct the learned Judicial Magistrate No.III, Thoothukudi, Thoothukudi District to take the petitioner's application U/s.451 r/w 457 of Cr.P.C., on file.

For Petitioner : Mr.A.Thiruvadi Kumar  
For Respondent : Mr.Prabu Ramachandran  
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the accused, to set aside the Return Order dated 22.11.2017 passed in unnumbered Cr.M.P of 2017, on the file of the learned Judicial Magistrate No.III, Thoothukudi, Thoothukudi District and consequently direct the learned Judicial Magistrate No.III, Thoothukudi, Thoothukudi District to take the petitioner's application U/s.451 r/w 457 of Cr.P.C., on file and pass appropriate orders.

2.The learned counsel appearing for the petitioner has submitted that the petitioner has purchased a Tractor bearing Registration No.TN69 Z 5268 from one Narayanan and the said tractor has been seized by the respondent in Crime No.363 of 2017 for the offence under Sections 379 I.P.C., and produced the same before the Judicial Magistrate No.III, Thoothukudi. He further submitted that since the petitioner is the owner of the said vehicle and he has filed an application under Section 451 r/w 457 Cr.P.C., seeking interim custody. The learned Judicial Magistrate No.III, Thoothukudi, has returned the said application stating that the



petitioner is not the owner as per the RC. Thereafter the petitioner has represented the said petition stating that though the petitioner has purchased the said vehicle on 30.03.2016, RC has not been transferred to his name. However, he has produced the document executed by the original owner namely, Narayanan to show that he has purchased the said vehicle. Even thereafter the learned Judicial Magistrate No.III, Thoothukudi has returned the said application on the same ground. He further submitted that the learned Judicial Magistrate No.III, Thoothukudi may be directed to take the said application on file and pass orders on merits.

3.The learned Government Advocate (Crl.Side) has submitted that as per Section 2(30) of the Motor Vehicles Act, 1988, "owner" means a person in whose name a Motor Vehicle stands registered, but in this case admittedly the said vehicle has not been registered in the name of the petitioner and hence, with a view to give an opportunity to the petitioner to produce Registration Certificate, the learned Judicial Magistrate has returned the petition.

4.Considering the aforesaid submissions, the learned Judicial Magistrate No.III, Thoothukudi is directed to entertain the application and conduct the enquiry and after enquiry if he feels that the petitioner has not established his ownership with regard to the aforesaid vehicle, then it is open to him to pass appropriate orders.

5.With the aforesaid observations, this Criminal Original Petition is disposed of.

6.The Registry is directed to return the petition which was filed by the petitioner, before the Judicial Magistrate No.III, Thoothukudi, to enable him to represent the same before the learned Judicial Magistrate No.III, Thoothukudi.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.III,  
Thoothukudi.

2.The Inspector of Police,  
Pudukkottai Police Station,  
Thoothukudi District.

+1cc to Mr.A.THIRUVADI KUMAR,Advocate,SR. 44469

CRL.O.P. (MD)No.1180 of 2018  
25.01.2018