



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.6971 of 2016

and

CRL.M.P.(MD)No.3507 of 2016

A.Shanmuga Sundaram

... Petitioner/Accused

-Vs-

1.The Inspector of Police,
District Crime Branch,
Madurai District.

In Crime No.615 of 2013

... 1st Respondent/Complainant

2.Hariharan

... 2nd Respondent

(2nd Respondent impleaded suo motu as per order of this Court made in Crl.O.P.(MD).No.6971 of 2016 dated 01.07.2016)

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to set aside the order in Cr.R.P.No.38 of 2015 passed by the learned V Additional Sessions Judge, Madurai, dated 16.12.2015, consequently, directing the respondent to entrust the vehicle bearing No.TN 57 AY 9999 to the petitioner.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.K.Suyambulinga Bharathi for R1
Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner challenging the order passed by the Court below in not giving the custody of the vehicle bearing registration No. TN 57 AY 9999 to the petitioner.

2.The learned counsel for the petitioner would submit that one Hariharan, who is the second respondent in this case had sold the car to the petitioner. He had also received the consideration for the said car. However, the car was not handed over to the petitioner. The said Hariharan went ahead and filed a complaint against the petitioner and the same was registered in Crime No.615 of 2013 by the Oomachikulam Police Station for the offences under Sections 406, 420, 120(b), 452, 342, 294(b), 323, 506(ii)IPC & 109 r/w 34 IPC.

<https://hcservices.ecourts.gov.in/hcservices/>

3.While this case was pending, the said Hariharan as well as



the petitioner filed a petition under Section 451 for return of the property. The learned Judicial Magistrate No.II, Madurai, by his order, dated 08.07.2014, was pleased to direct the handing over of the custody of the car to the said Hariharan subject to certain conditions.

WEB COPY

4.The learned counsel for the petitioner would submit that the said Hariharan did not comply with the conditions. Therefore, he did not take the custody of the car.

5.The petitioner aggrieved by this order had filed Criminal Revision Petition in Cr.R.P.No.38 of 2015 before the V Additional District Court, Madurai and the said Court by order, dated 16.12.2015, confirming the order passed by the learned Judicial Magistrate.

6.Subsequently, the respondent police after investigation had closed the case as a false complaint and had also filed final report to that effect before the learned Judicial Magistrate No.II, Madurai. RC notice was also served on second respondent. The specific finding of the respondent police is that the said Hariharan after selling the car has intentionally given a false complaint against the petitioner in order to avoid repayment of the amount to the petitioner. The police have also found that the vehicle actually belongs to the petitioner.

7.The learned counsel for the petitioner would submit that even after the case was closed, the vehicle continues to be in possession of the respondent police.

8.The respondent police having filed closure report, cannot continue to keep possession of the vehicle, more particularly due to the fact that they have found the petitioner is the owner of the property and have also found that the said Hariharan has given a false complaint against the petitioner after selling the car.

9.In the facts and circumstances of the case, the order passed by both the Courts below are set aside and the first respondent police is directed to hand over the vehicle bearing No. TN 57 AY 9999 to the petitioner.

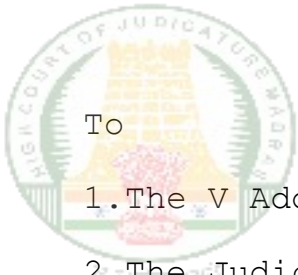
10.This Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petition is also dismissed.

Sd/

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar (CS-III)



To

1.The V Additional District Judge, Madurai.

2.The Judicial Magistrate No.II, Madurai.

3.The Inspector of Police,
District Crime Branch, Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.D.S.Haroon Rasheed, Advocate, SR.No.81958

CRL.O.P. (MD) No.6971 of 2016
03.09.2018

TM

KK/SV/SAR-3/05.10.2018/3P-6C