



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE **G. JAYACHANDRAN**

Crl.R.C(MD)No.429 of 2018

Lakshmi : Petitioner/Petitioner

Vs.

1.The State rep. By
The Inspector of Police,
Kannivadi Police Station,
Theni District.
[Crime No.268/2017]

2.Nallaiyan : Respondents/Complainants

PRAYER: Criminal Revision Case is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the conditions 1 to 3 in the order passed by the learned Judicial Magistrate No.II, Dindigul, Dindigul District made in Cr.M.P.No.2585 of 2018 dated 09.04.2018 and consequently direct the vehicle TATA SUMO GOLD bearing Registration No.TN-07-BT-6509 to be returned to the petitioner as interim custody.

For Petitioner : Mr.R.M.Makesh Kumaravel

For Respondent No.1 : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor.

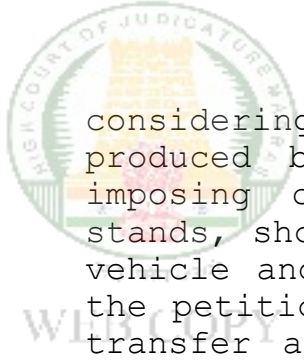
For Respondent No.2 : Mr.T.Vadivelan

ORDER

This Criminal Revision Case is filed praying to set aside the conditions 1 to 3 in the order dated 09.04.2018 made in Crl.M.P.No.2585 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul, Dindigul District.

2.Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor for the first respondent police and the learned counsel for the second respondent.

3.The application filed for return of vehicle on the ground that the revision petitioner has purchased the vehicle, Tata Sumo Gold, bearing Registration No.TN-07-BT-6509, a month before the vehicle involved in the offences under Sections 457 and 380 IPC. However, she has not effected the transfer. The Trial Court after



considering the petition for return of vehicle and the documents produced by the revision petitioner, has allowed the petition, imposing conditions that Nallaiyan, in whose name the vehicle stands, should give an affidavit for accepting the alienation of the vehicle and thereafter, the vehicle will be given in possession to the petitioner herein for a period of one month and to effect name transfer and produce the original R.C. To the Trial Court. The further condition was that to execute a bond for Rs.5,00,000/- [Rupees five lakhs only] with two sureties.

4.Now, it is contended by the learned counsel for the revision petitioner that since the second respondent is not available and she is not able to trace him, she is not in a position to get the affidavit from the second respondent, Nallaiyan. Therefore, the conditions 1 to 3 has to be set aside.

5.This Court finds no error in the conditions imposed by the Trial Court. However, considering the difficulty to get affidavit from the second respondent, who was not put to notice before passing order, some indulgence is required.

6.The learned counsel for the second respondent seeks time to get instructions from his client.

7.This Court is of the opinion instead of keeping the matter pending, the impugned order may be set aside and the matter may be remanded back to the Trial Court forthwith with direction. Accordingly, the order dated 09.04.2018 made in CrI.M.P.No.2585 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul, is set aside and the matter is remitted back to the Trial Court and on receipt of the papers, the Trial Court shall cause notice to the second respondent and on his appearance, hear him and pass appropriate orders.

8.This Criminal Revision Case is allowed on the above terms.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Judicial Magistrate No.II,
Dindigul, Dindigul District.

<https://hcservices.ecourts.gov.in/hcservices/>
2.The Inspector of Police,
Kannivadi Police Station,



Theni District.

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

+1CC TO MR.RM.MAKESH KUMARAVEL,ADVOCATE, SR NO.78338

+1CC TO MR. T.VADIVELAN, ADVOCATE, SR.NO.78402

ORDER MADE IN
Cr1.R.C (MD) No.429 of 2018
13.08.2018

DS/RSK/SAR 4/24.08.2018/3P/6C