



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C.(MD)No.473 of 2018

WEB COPY

M/s.Sundaram Finance Limited,
Having Its office at
No.21, Pattullos Road,
Having its Branch
At G.V.Complex, 11/B I Floor,
Kalavasal Bye Pass Road,
Represented by its
Assistant Manager
Kamalanand

... Revision Petitioner / Petitioner
/ 3rd Party

-vs-

1.State Represented by
Inspector of Police,
Kallal Police Station,
Kallal.
(Crime No.12 of 2018)

... 1st Respondent / 1st Respondent
/ Complainant

2.G.Anbumani

... Respondent / 2nd Respondent
/ Owner

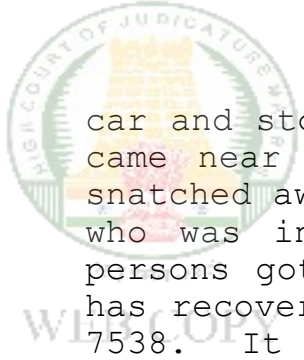
PRAYER: Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., praying to call for the records in Crl.M.P.No.2275 of 2018 on the file of the learned Principal District Munsif Cum Judicial Magistrate, Karaikudi and set aside the conditions 3,4 and 6 imposed in order dated 18.05.2018 and permit the petitioner to sell the vehicle TN 63 AK 7538.

For Petitioner : Mr.S.Pon Senthil Kumaran
For R1 : Mr.A.Robinson,
Government Advocate (Crl.Side)

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

2.The revision petitioner is a company involved in financing to the parties for purchasing motor vehicles. The vehicle, for which the petitioner has extended finance, is used by the accused persons for chain snatching. The complaint given by the victim, which is found in the typed set of papers, indicates that when she was walking along the road, the accused persons came in a white colour



car and stopped ahead of her and two persons got down from the car, came near her, under the pretext of enquiring some address, they snatched away her chain worth about Rs.90,000/-. The third accused, who was in the driver seat, took away the car, after these two persons got into the car. On receipt of the complaint, the police has recovered CHEVROLET TAVERA car bearing Registration No.TN 63 AK 7538. It has been seized and produced before the Court as a case property.

3.The revision petitioner herein, filed application before the trial Court under Section 451 Cr.P.C., seeking return of the vehicle. While seeking return of vehicle, the petitioner also sought for permission to sell the vehicle. The Trial Court, after considering the plea of the petitioner and the Judgment of the Hon'ble Supreme Court of India rendered in the case of Sunderbhai Desai Vs. State of Gujarat reported in 2003 (1) CTC 175 has partly allowed the said application with certain conditions. One of the conditions imposed by the Trial Court, is that the petitioner shall execute a personal bond for a sum of Rs.7,00,000/- with one surety for the likesum and shall not alienate the property.

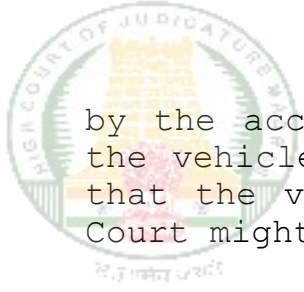
4.Aggrieved by the conditions imposed by the Trial Court, the petitioner filed this Criminal Revision Case, contending that the conditions imposed by the Trial Court that the petitioner should not sell the property and should keep the identity of the vehicle, would cause hardship to them.

5.The financier lent loan to purchase the vehicle later used for crime cannot have any legal right to take back the vehicle and sell the same pending trial. If such permission is granted, it will amount to permitting the petitioner to destroy the evidence. None of the Courts either the High Court or the Hon'ble Supreme Court had allowed such sort of request.

6.The learned counsel appearing for the petitioner has circulated the judgment passed by this Court on 10.01.2018, wherein the Hon'ble Judge held that the vehicle was not used as weapon for the commission of the crime and it cannot be a material piece of evidence. Therefore, this Court recorded the statement of one Kalidoss / borrower to the effect that the car was purchased by him and he has no objection in the car being returned to the petitioner for arrears of dues, and the vehicle may be returned to the financier and he may be permitted to sell the same.

7.The facts of the case under consideration is entirely different. The victim has identified the vehicle by its colour and size. If the vehicle is given back to the financier and allowed to sell, it will be advantage to the accused persons to dispute the contentions of the complainant.

8.The accused persons, from whom the vehicle was seized, have not sought for return of vehicle. If an undertaking is given



by the accused persons that they will not dispute the identity of the vehicle at a later point of time or take advantage of the fact that the vehicle has not been marked as a case property, then the Court might have considered the request of return of vehicle.

9. In the above factual scenario, the judgment cited by the learned counsel for the petitioner has no relevance. If the finance company for their profit motive chooses to advance loan to a wrong person, they are bound to suffer. They cannot be given advantage of returning vehicle and selling the vehicle for recovery of their dues at the risk of denting the prosecution case and public interest. Hence, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Principal District Munsif Cum
Judicial Magistrate, Karaikudi.
2. The Inspector of Police,
Kallal Police Station,
Kallal.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.S.Pon Senthil Kumaran, Advocate, SR.No.78970

CRL.R.C. (MD) No.473 of 2018

16.08.2018

MYR

ES/SV/SAR 3/14.09.2018/3P/5C