



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM:

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.R.C. (MD) .No.545 of 2018

Azaruddin

...Petitioner

Vs.

State rep.through
The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District,
Thoothukudi.
(Crime No.41 of 2018)

...Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C, to call for the records pertain to the order passed in Cr.M.P.677 of 2018, dated 16.08.2018 on the file of the Hon'ble Session Judge FAC Mahalir Neethimandram, Thoothukudi and set aside the same and consequently MODIFY the above order to that effect that the Interim Custody of TATA INDIGO CAR bearing Registration No.TN 11 H 8041 to be granted to the petitioner even before the completion of investigation in Crime No.41 of 2018 on the file of the respondent police.

For Petitioner	:Mr.R.Mathava Selvam
For Respondent	:Mr.A.Robinson
	Government Advocate (Criminal Side)

O R D E R

This Criminal Revision Petition has been filed challenging the order passed by the learned Sessions Judge (FAC), Mahalir Neethimandram, Tuticorin in Cr.M.P.No.677 of 2018, dismissing the application filed by the petitioner seeking for return of Tata Indigo Car belonging to the petitioner.

2.The learned counsel for the petitioner would submit that the said Car was seized by the respondent police in the course of investigation in Crime No.41 of 2018, which was registered against the petitioner for an offence under Section 366 IPC and Section 11(6) r/w 12 of Protection of Children from Sexual Offences Act 2012. The Car was also produced before the Court below in P.R.No.4 of 2018.

3.The petitioner has filed a petition for return of the Car and the Court below dismissed the petition on the ground that the



petitioner had committed the offence by kidnapping the girl in the said Car and the offence involved in serious in nature and therefore, the Car cannot be handed over to the custody of the petitioner.

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4. In such circumstances, the Court below ought to have taken note of the principles stated by the Hon'ble Supreme Court in **B.Palani Vs.State Rep.by Inspector of Police, Brammadesam Station** reported in **2003 SCC Criminal 1943**. This Court also had an occasion to deal with cases where the accused person seeks for return of property and this Court has also given guidelines in that regard in the case of **Selvam and another vs. State by Inspector of Police, Theevatti Police Station, Salem District**, reported in **(2012) 2 CTC 549** and in the case of **K.Ramar vs. State of Tamil Nadu, rep. by the Inspector of Police, Vembakottai Police Station, Virudhunagar District** reported in **(2013) 1 MLJ (Criminal) 101**. The Court below has not taken into consideration the guidelines given by this Court.

5. In such circumstances, there shall be a direction to the respondent police to hand over the Tata Indigo Car bearing Registration No.TN 11 H 8041 to the petitioner subject to the following conditions:

(a) the petitioner shall surrender the original R.C.Book of the Car before the Court below.

(b) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the court below with one surety.

(c) the petitioner shall file an affidavit of undertaking before the court below, undertaking not to sell, dispose of, modify or deal with the Car in any manner, pending disposal of the case and the petitioner shall further undertake that he will produce the Car as and when directed by the court below.

6. This Criminal Revision Petition is disposed with the above directions.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The Session Judge FAC Mahalir Neethimandram,
<https://hcservices.ecourts.gov.in/hcservices/>
Inoothukudi.



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

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

4.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.(2 COPIES)

+1 CC To MR.R.HATHAVA SELVAM, Advocate SR. NO. 86797

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TR/RP/SAR-IV(02.11.2018)3P 7C