

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05/03/2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5744 of 2019

Aswath Durai Selvam

... Petitioner

Vs.

1.The Inspector of of Police,
C.C.B., Chennai.
(Crime No.485 of 2014)

2.Kamalesh.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to modify the condition imposed in Para No.5, Serial No.1 and 3 passed in the order dated 07.03.2017 in Crl.M.P.No.1127 of 2017 on the file of the Judicial Magistrate, Alandur.

For Petitioner : Mr.S.Vinoth Kumar

For Respondent : Mr.C.Raghavan,
Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed seeking to modify the condition imposed in Crl.M.P.No.1127 of 2017 by the learned Judicial Magistrate, Alandur.

2. The petitioner has filed a petition in Crl.M.P.No.1127 of 2017 before the learned Judicial Magistrate, Alandur, seeking to order for return of Mercedes Benz C220 CIDBE bearing Regn. No.TN 12B 7935 bearing Engine No.65191133809344 and Chasis No.WDD2040026L071310 of 2014 Model OBS Black in colour, which was recovered by the 1st respondent as a case property in Crime No.485 of 2014. It is seen that the petitioner Bank is the owner of the property since the vehicle was purchased by the respondent under hypothecation agreement. Considering the same, the Court below allowed the petition and granted interim custody of the vehicle in favour of the petitioner on the following conditions:

"1.The petitioner shall execute a bond for Rs.25,00,000/- along with one surety for the like sum.

2.The petitioner shall also produce a photograph of the vehicle.

3.The petitioner shall file an affidavit of undertaking stating that (a)he will not alienate, encumber or change the physical features of the vehicle. (b)he will also produce the vehicle as and when ordered to do so."

3.The learned counsel for the petitioner submitted that the petitioner is a banker and they are ready and willing to auction the vehicle and deposit the sale proceeds in the crime number. Now, the vehicle is also in the custody of first respondent and already it has lost its value since it has been parked in the sunlight and rain for the past five years.

4.Considering the fact the vehicle lost its value since it is exposed to sunlight and rain for the past five years, it would be appropriate to permit the petitioner to auction the vehicle bearing Regn.No.TN 12B 7935 and the sale proceeds shall be deposited in the crime No.485 of 2014 on the file of the first respondent before the concerned learned Judicial Magistrate, Alandur. Therefore, the order dated 07.03.2017 in Cr.M.P.No.1127 of 2017 in Crime No.485 of 2014 is modified to the extent that instead of returning the vehicle to the petitioner, the Court below is directed to permit the petitioner to take custody of the vehicle and auction it and deposit the sale proceeds to the credit of Crime No.485 of 2014 without executing any bond. All other conditions shall remain intact.

5.With the above modification, this Criminal Original Petition is disposed of.

सत्यमेव जयते Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

To

1.The Inspector of of Police,
C.C.B., Chennai.
(Crime No.485 of 2014)

2.The Public Prosecutor,
High Court, Madras.

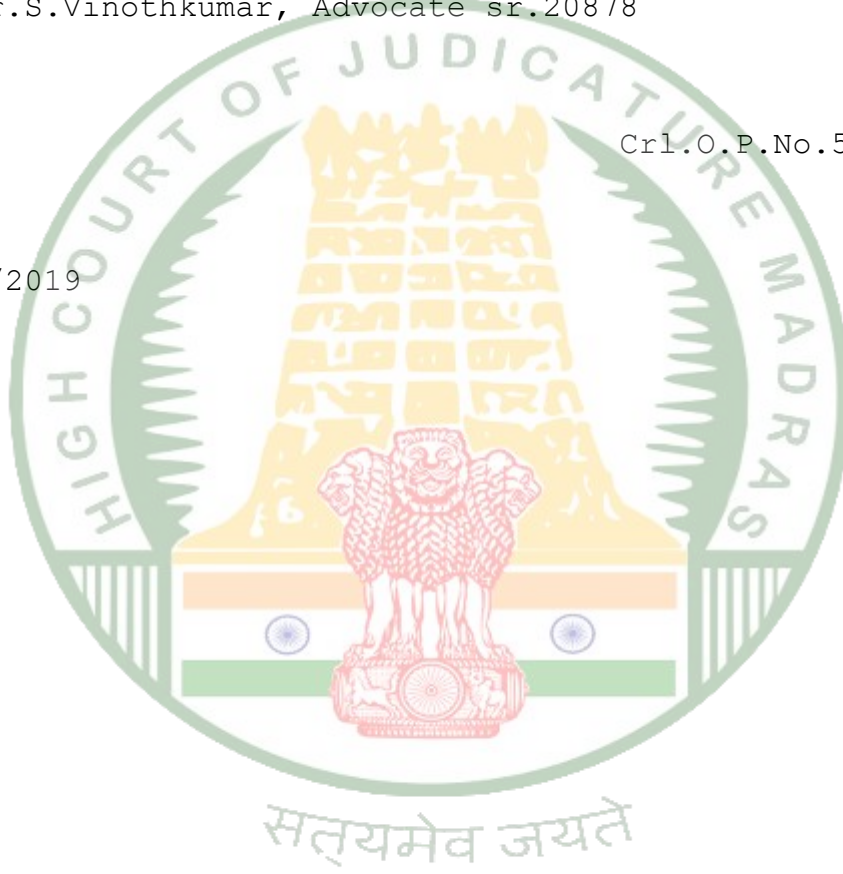
3.The Judicial Magistrate,
Alandur.

4.The Chief Judicial Magistrate,
Alandur.

+lcc to Mr.S.Vinothkumar, Advocate sr.20878

CrI.O.P.No.5744 of 2019

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