

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.15933 of 2019

K.Sakthi Balaji

...Petitioner

Vs.

1. Nataraj @ Vijayakumar
2. Radha @ Radhakrishnan
3. Vignesh
4. The State Represented by
Inspector of Police,
Erode G.H. Police Station,
Crime No.12 of 2017
Erode District.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed dated 21.12.2018 made in C.M.P No.6545 of 2018 by modifying the condition No.3 in the C.M.P.No.1763 of 2018 dated 08.05.2018 on the file of the Judicial Magistrate No.II, Erode by allowing this Criminal Original Petition.

For Petitioner : Mr. R. Prabakar

For 4th Respondent : Mr. M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the modification petition filed by the petitioner in C.M.P.No.6545 of 2018.

2. The petitioner is the owner of the vehicle. The said vehicle is said to have been involved in a crime and is a material object in Crime No.12 of 2017. The vehicle was seized and was handed over to the custody of the Court.

3. The petitioner who is not an accused person in this case and he claims to be the owner of the vehicle and filed a petition in C.M.P No.1763 of 2018 before the Court below seeking for return of vehicle. The said petition was allowed by the Court below by an order dated 08.05.2018 by imposing certain

conditions.

4. One of the conditions that was imposed by the Court below was that the petitioner has to surrender the original R.C book before the Court. The petitioner complied with the said condition and had also surrendered the original R.C book before the Court below.

5. After some time, the petitioner filed the present application in C.M.P No.6545 of 2018 seeking to modify the condition and for the return of the original R.C. Book. This petition was dismissed by the Court below on the ground that if the original R.C book is given back to the petitioner, he will dispose of the vehicle which was returned to him and it will therefore have an impact on the case.

6. The learned counsel for the petitioner submitted that the petitioner wanted the original R.C book since he was intercepted by the police on many occasions during regular check up and he was insisted to show the original R.C book. In spite of the petitioner explaining the situation, on a couple of occasions, the petitioner was also made to pay the fine amount. Therefore, the petitioner wanted the original R.C book and he was also willing to give an undertaking before the Court below that he will not alienate the vehicle and that he will produce the R.C book as and when required by the Court.

7. The learned counsel for the petitioner also brought to the notice of this Court the judgment in Muthu Raman v. Inspector of Police, K-7, I.C.F Police Station, Chennai reported in 2015 (3) MLJ (Criminal) 583 wherein this Court has gone to the extent of permitting the owner of the car who is not the accused person, even to sell the car after complying with certain conditions. The learned counsel by pointing out this judgement, submitted that the Court below went wrong in denying the petitioner to get back his original R.C book which was required for genuine reasons.

8. Heard the learned Additional Public Prosecutor appearing on behalf of the 4th respondent.

9. The learned counsel for the petitioner has rightly relied upon the judgement in Muthuraman case referred supra, wherein this Court has held that it is not necessary to mark the car as a material object and it is enough for the Investigating Officer to mark the seizure memo and the mahazar attested by the independent witnesses for proving the factum of seizure of the car and it is sufficient to mark the photograph of the car and state in the witness box that the car has been returned to the owner. The reason behind this judgement is to ensure that the

owner of the car who had nothing to do with the alleged offence, should not be deprived of his right to deal with his own car in the guise of pending criminal proceedings. In view of the above, the orders passed by the Court below requires interference. The order passed in C.M.P.No.6545 of 2018 dated 21.12.2018 is hereby set aside and the Court below is directed to return the original R.C book to the petitioner and the petitioner shall give an undertaking before the Court below that he will return the original passbook as and when required by the Court below and that he will not alienate the vehicle.

10.In the result, this Criminal Original Petition is allowed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate No.II, Erode.

2. The Inspector of Police,
Erode G.H. Police Station,
Crime No.12 of 2017
Erode District.

3. The Public Prosecutor,
High Court of Madras.

+1 CC to Mr.M.Prabhakar, Advocate sr 57531.

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CRL.O.P.No.15933 of 2019

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SP(11/07/2019)