

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.16420 of 2019

M.Ramanathan

... Petitioner

Vs.

State of Tamil Nadu rep by its,
The Inspector of Police,
Perur Police Station,
Coimbatore City.
Crime No.46/2019

.... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records comprised in Cr1.M.P.No.2151 of 2019 in Crime No.46 of 2019 and set-aside the order dated 20.05.2019 made by the Learned Judicial Magistrate No.1 at Coimbatore.

For Petitioner : Mr.Vimal B.Crimson

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This petition has been filed seeking for modification of the condition imposed by the Court below while allowing the petition filed by the petitioner for return of vehicle.

2.It is seen from the records that the petitioner is the owner of the vehicle and his vehicle was used for commission of certain offence by the accused persons which is a subject matter of investigation in Cr.No.46 of 2019. The petitioner is the defacto complainant and the owner of the property. He filed a petition for return of vehicle and the same was allowed with the following conditions:

1.The petitioner shall execute a bond for Rs.10,00,000/- along with two sureties.

2.The petitioner shall produce the Original R.C.Book before this Court.

3.The petitioner shall produce the photo copies of the property taken in different angles.

4.The photo copies of the property to be attested by both the petitioner and Investigation Officer.

5.The petitioner shall produce the vehicle on first working day of every month until further order.

6.The petitioner shall also produce the property at the time of trial as same conditions.

7.The petitioner shall not sell or alter in anyway encumber the property.

3.The learned counsel for the petitioner submitted that the petitioner is aggrieved by condition Nos.1, 2 and 5. The learned counsel submitted that execution of bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) with two sureties will result in giving immovable property security and the petitioner is not in a position to comply with the same and the said condition is also onerous. The learned counsel further submitted that the vehicle has been purchased under the hire purchase scheme and it is under hypothecation and therefore the Original R.C.Book cannot be handed over to the Court.

4.The learned counsel concluded his arguments by submitting that the petitioner will produce the vehicle as and when required by the Court and he will also file an affidavit to that effect and also that he will not alienate or encumber the property without permission of the Court.

5.Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

6.As rightly argued by the learned counsel for the petitioner, certain conditions that have been imposed by the Court below are onerous and is not required to be imposed. This Court in the Judgment of Muthu Raman v. State, by The Inspector of Police K-7, I.C.F. Police Station, Chennai (Crime No.327 of 2013) reported in 2015 3 MWN (Cr1.) 296 has gone to the extent of even permitting the owner of the vehicle to sell the vehicle subject to certain conditions. The march of law seems to be that the owner of vehicle should not be made to suffer and should not be prevented from dealing with his own vehicle when particularly he is not an accused in the case.

7.In view of the above, condition Nos.1, 2 and 5 are modified as under:

(1).The petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand Only) with one surety for a like sum.

(2).The petitioner instead of producing the original R.C.Book, shall file an affidavit before the Court below regarding the vehicle being subjected to a hire purchase agreement and with an undertaking that the vehicle will not be sold or encumbered without permission of the Court and;

(3).The petitioner shall produce the vehicle as and when required by the Court at the time of Trial.

8.The other conditions imposed by the Court below shall stand as it is.

9.This Criminal Original Petition is disposed of accordingly.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

jas/vs
To

1. The Judicial Magistrate No.1
Coimbatore

2.The Inspector of Police,
Perur Police Station,
Coimbatore City.
Crime No.46/2019

3.The Public Prosecutor,
High Court, Madras.

+1 CC to M/s.Vimal B.Crimson, Advocate sr 52897.

Crl.O.P.No.16420 of 2019

SP(04/07/2019)