

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 31.10.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1109 of 2019

A.Sangeetha

.. Petitioner

Vs

State rep by
The Inspector of Police,
Desur Police Station,
Vandavasi Taluk,
Tiruvannamalai District.
(Cr.No.118/2019)

.. Respondent

Prayer:- This Petition filed under section 397 and 401 Cr.P.C., to set aside the order in Crl.M.P.No.1690 of 2019 dated 11.10.2019 by the Judicial Magistrate Court, Vandavasi and to call for records and return the car to the petitioner.

For Petitioner : M/s.S.Nandhini

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

The Criminal Revision has been filed by the petitioner seeking to call for the records and to set aside the order dated 11.10.2019 in Crl.MP.No.1690/2019 in Crime No.118/2019 passed by the learned Judicial Magistrate, Vandavasi.

2 Heard the learned counsel on both sides.

3. The petitioner is a third party in Crime No.118 of 2019 and the owner of car bearing registration No.TN-09-BM-4566 Red Colour. The said car was regularly used by the petitioner's brother-in-law T.V.G.Karthiban, who is a practising advocate at High Court, Madras from the year 2005 onwards. Her brother-in-law's brother one T.V.G. Elangovan had borrowed the car from T.V.G. Karthiban on 12.05.2019. The said Elangovan was involved in crime No.118 of 2019 registered by the respondent for offence

under Section 294 (b), 419, 420 and 506(i) and the car had been seized by the respondent police and produced before the Court under Seizure Mahazar in C.P.No.67 of 2019. The petitioner being a third party owner of the vehicle had filed a petition seeking for return of vehicle. The respondent had filed a counter stating that the registration certificate reflects that the vehicle belongs to one Mr.Prasad which was contrary to submission of the petitioner in her affidavit that she is the owner of the vehicle. The trial Court after hearing both side had dismissed the petition stating that the vehicle had been transferred to the petitioner on 30.05.2019 and the same has been hypothecated with Mahindra & Mahindra Financial service from 30.05.2019. Further the trial Court had held that as per seizure mahazar one of the item of case property in C.P.No.67 of 2019 is the sticker label as Commissioner of Oaths in the front side number plate and sticker label as Commissioner of Oaths in back side number plate and Advocate sticker in the back side of the car. If the vehicle is returned to the petitioner the sticker label and the number plate will be tampered and destroyed by the petitioner. Further the trial Court had held that even a small change made in the case property affixed in the car will affect the investigation and thereby had dismissed the petition, against which the present revision has been filed.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of the property and she is not an accused in Crime No.118 of 2019 registered by the respondent police. He would submit that the car has been parked in the open area exposed to the vagaries of weather resulting in the car getting damaged and the value being lost. He would further submit that the case has been registered by the respondent on the false complaint of the defacto complainant who himself is a convicted accused. Due to political rivalry he has given a false complaint stating that he along with one P.Selva Kumar had paid money to the accused T.V.G.Elangovan who claims to be an advocate and that when nothing has been done by the advocate, the defacto complainant had demanded the money back and that the accused had attempted to run over the defacto complainant with the alleged car. He would further submit that the said Selva Kumar has filed an affidavit stating that he has not accompanied the defacto complainant as stated by him when the amount of Rs.10,000/- was stated to be handed over to the said T.V.G. Elangovan.

5. The learned counsel further submitted that the petitioner undertakes to abide any stringent condition that may be imposed by the trial Court and that the petitioner will undertake that she will not alter the features of the vehicle. He would also

submit that the photographs of the vehicle may be taken from all sides and the number plates may be removed from the vehicle in the presence of the respondent and the petitioner is prepared to give necessary acknowledgement accepting the same. Further he would also submit that the petitioner is ready and willing to deposit the original RC book before the trial Court and prepared to file an affidavit of undertaking agreeing to produce the vehicle as and when required by the respondent for further investigation or for the purpose of trial.

6. This Court is of the opinion that the vehicle may be returned to the petitioner/third party on imposing certain conditions. In view of the same order in CrI.MP.No.1690/2019 in Crime No.118/2019 passed by the learned Judicial Magistrate, Vandavasi dated 11.10.2019 is set aside and the vehicle bearing Registration No.TN-09-BM-4566 Red Colour is directed to be returned to the petitioner subject to the following conditions.

a. The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate Court, Vandavasi.

b. The petitioner shall take photographs of the vehicle with the offending number plates and also after removing the offending number plates in the presence of the learned Judicial Magistrate and the respondent police. The learned Magistrate shall record the proceedings of taking the photographs of the car with the offending number plates and after removal of the offending number plates and the petitioner shall duly acknowledge the record of the proceedings drawn by the learned Magistrate. The petitioner shall file an affidavit of undertaking that she will not object to the record of proceedings drawn by the learned Magistrate-I and she shall duly attest in the proceedings drawn and the photographs of the car taken during such proceedings.

c. The petitioner shall produce the RC Book of the vehicle in question before the Trial Court and file an affidavit of undertaking that she will not dispose or alter the physical features of the vehicle and that she will produce the vehicle before the Trial Court as and when required by the Trial Court for trial.

d. The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders.

7. With the above observations the criminal revision petition is allowed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate Court,
Vandavasi .

2. The Inspector of Police,
Desur Police Station,
Vandavasi Taluk,
Tiruvannamalai District.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to M/s.S. Nandhini, Advocate sr 90152

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SAI (CO)
SP(15/11/2019)

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