

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.01.2019

CORAM:
THE HON'BLE MR.JUSTICE N. ANAND VENKATESH
Crl.O.P.No.26591 of 2018

G.Nepolean

... Petitioner

vs.

1. State Rep. By
The Inspector of Police,
District Crime Branch,
Erode. (Crime No.9 of 2018)

2. C. Ganeshamoorthy

... Respondents

(Second respondent is impleaded as per the order of this Court dated 04.12.2018 made in Crl.M.P.No.16438 of 2018 in Crl.O.P.No.26591 of 2018)

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the learned Second Additional Sessions Judge, Erode and set aside the order passed in Crl.R.P.No.24 of 2018 dated 29.10.2018 in confirming the order of the Chief Judicial Magistrate, Erode in Crl.M.P.No.2576 of 2018 dated 31.08.2018 and direct the respondent to return the vehicle John Deere Tractor bearing Regn.No.TN-33-BP-8190 concerned in Crime No.9 of 2018 on the file of respondent to the custody of the petitioner.

For Petitioner : Mr.P.Ananda Kumar

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : Notice served.

O R D E R

This petition has been filed challenging the order passed by the Court below dismissing the petition filed by the petitioner seeking for return of the vehicle in connection with Cr.No.9 of 2018.

2. The Court below has dismissed the petition mainly on the ground that earlier one C.Ganeshamoorthi had approached the Court and filed C.M.P.No.2042 of 2018 seeking for return of the vehicle on the ground that the vehicle belongs to him. This petition was dismissed by the Court below by an order dated

17.07.2018. Thereafter, the said C.Ganeshamoorthy is said to have transferred the vehicle in the name of the petitioner. Based on the same, the petitioner has filed a petition for release of vehicle. The Court below gave a specific finding that in order to get over the earlier order of dismissal, the petitioner has devised a method to get a release of vehicle by taking a stand that the vehicle has been transferred in his name by C.Ganeshamoorthy. Going by the conduct of the petitioner, the Court below thought it fit to dismiss the petition for release of vehicle.

3. C.Ganeshamoorthy was impleaded as a party before this Court and he does not appear either in person or through the counsel before this Court. C.Ganeshamoorthy has not sought for the return of vehicle after his petition was dismissed earlier on 17.07.2018. This Court need not go into the question of title over the vehicle since the said C.Ganeshamoorthy is not making any claim over the vehicle. At this stage, the Court is more concerned about preserving the vehicle since the vehicle standing in the police station is unnecessarily being exposed to rain and shine and by the passage of time, the entire vehicle could become damaged and it will be no use to any one.

4. In the considered view of this Court, the possession of the vehicle can be handed over to the petitioner by imposing stringent conditions. The order passed by the Court below in CrI.M.P.No.2576 of 2018 is hereby set aside and the Court below is directed to release the vehicle to the petitioner by imposing sufficient conditions.

5. In the result, this criminal original petition is allowed and there shall be a direction to the learned Chief Judicial Magistrate, Erode to release the vehicle to the petitioner by imposing sufficient conditions and after getting a necessary bond executed by the petitioner along with sureties.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dss

To

1.The Second Additional Sessions Court,
Erode.

2.The Inspector of Police,
District Crime Branch, Erode.

3.The Public Prosecutor,
Madras High Court, Chennai.

4.The Chief Judicial Magistrate,
Erode.

+1cc to Mr.P.Anand Kumar, Advocate, S.R.No.573

Crl.O.P.No.26591 of 2018

SS (CO)

rrs 24/01/2019