

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.9346 of 2018

P.Kathiresan

.. Petitioner

Vs.

The Inspector of Police,
Sathyamangalam,
Erode District.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the III Additional District Court, Gobichettipalam, to pay the petitioner, owner of the stolen car - TATA Sumo bearing Registration No.TN-38-J-3967, the sum of Rs.1,50,000/- recovered from the accused.

For Petitioner : Mr.M.V.Krishnan

For Respondents: Mrs.P.Kritika Kamal
Government Advocate
(Crl.Side)

ORDER

This case is taken up through video conferencing.

2. This criminal original petition has been filed to direct the Court of III Additional District Court, Gobichettipalam, to pay the petitioner, owner of the stolen car - TATA Sumo bearing Registration No.TN-38-J-3967, the sum of Rs.1,50,000/- recovered from the accused.

3. It is the case of the prosecution that the petitioner was the owner of TATA Sumo tourist car bearing Registration No.TN-38-J-3967 and had appointed one Raju (PW1) as its driver; on 07.05.2002, the accused engaged the services of Raju (PW1) for a trip and directed him to proceed towards Tiruppur; while he was so proceeding, they made him to stop the car, assaulted

him, pushed him out of the car and sped away with it.

4. On these allegations, on a complaint lodged by Raju (PW1), the police registered a case in Crime No.510 of 2002 and took up investigation of the case.

5. During investigation, the police arrested Sekar (A5) and recovered a tape recorder (M.O.3) that was fitted in the car and also recovered a sum of Rs.1,50,000/- (M.O.4 series), being part of sale consideration on the sale of the car.

6. After completing the investigation, the police filed a final report in P.R.C.No.5 of 2006 before the Judicial Magistrate, Sathyamangalam, against six accused viz., Veera @ Veerabai (A1), Appu @ Abuthayari (A2), Abdul Hakkim (A3), Kathirvelu (A4), Sekar (A5) and Raju @ Rajesh @ Ramachandran (A6). During committal proceedings Kathirvelu (A4) and Sekar (A5) absconded and therefore, the case against them was split up as P.R.C.No.32 of 2014 and the parent case was committed to the Court of Session in S.C.No.17 of 2015.

7. The trial in S.C.No.17 of 2015 proceeded before the III Additional District and Sessions Court, Gobichettipalayam, against Veera @ Veerabai (A1), Appu @ Abuthayari (A2), Abdul Hakkim (A3) and Raju @ Rajesh @ Ramachandran (A6), which had ended in their acquittal on 25.11.2016. The tape recorder was marked as M.O.3 and the cash of Rs.1,50,000/- was marked as M.O.4 series.

8. Since the split up case in P.R.C.No.32 of 2014 is pending, no order with regard to the disposal of the tape recorder (M.O.3) and cash (M.O.4 series) has been passed by the trial Court. Under such circumstances, the petitioner, who is the owner of the car, has filed the present petition under Section 482 Cr.P.C. with the above prayer.

9. Heard Mr.M.V.Krishnan, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) appearing for the respondent/State.

10. Under normal circumstances, this Court would have directed the petitioner to approach the trial Court under Section 452 Cr.P.C. However, in this case, the trial Court has not passed any order with regard to the disposal of the cash of Rs.1,50,000/- (M.O.4 series), on the ground that, the case against the absconding accused is pending. Under such circumstances, no purpose will be served by directing the petitioner to file an application under Section 451 or 452 Cr.P.C. before the trial Court.

11. The petitioner was examined as PW2 in the trial Court and his driver Raju was examined as PW1, who has stated that the accused engaged him for a trip, asked him to go to various places and at one point, they stopped the car, blindfolded him, stuffed his mouth with a cloth and dropped him en route.

12. As alluded to above, the police were not able to seize the car, but were able to recover only the sum of Rs.1,50,000/- being the sale consideration for disposal of the car. The fact remains that except the absconding accused viz., Kathirvelu (A4) and Sekar (A5), the other accused have been acquitted and none of them including the absconding accused had come forward to claim the sum of Rs.1,50,000/- that has been marked as M.O.4 series in the case.

13. It will be a travesty of justice if the Court were to retain the sum of Rs.1,50,000/- indefinitely till the two absconding accused are brought to justice. The victims of crime will lose faith in the judicial system if anachronistic procedures are followed. No indulgence can be shown to outlaws, who have no respect for the institution of Court. Kathirvelu (A4) and Sekar (A5) are in abscondance since 2014 and hence, they don't deserve to be treated with kid gloves at the expense of the victims of crime.

14. In such view of the matter, this Court issues the following directions:

i. the trial Court shall hand over the cash of Rs.1,50,000/- with interest, if any, to the petitioner on proper identification, since the Court has kept the amount in Fixed Deposit.

ii. the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties, undertaking that, he will give evidence before the Court as and when the trial against Kathirvelu (A4) and Sekar (A5) resumes.

iii. at the time of handing over of the money, the trial Court shall draw proceedings and obtain the signature of the petitioner and the two witnesses for having received the same and the proceedings so drawn can be marked as an exhibit in lieu of the cash.

15. The fact that Kathirvelu (A4) and Sekar (A5) are in abscondance since 2006, impels this Court to grant absolute custody of the money to the petitioner, who is a victim of the crime. In the trial against Kathirvelu (A4) and Sekar (A5) in the future, it may not be necessary to mark the cash, but the proceedings drawn by the trial Court can be marked as an exhibit in lieu of the cash.

In the result, this criminal original petition is allowed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

nsd

To

1. The III Additional District and Sessions Judge,
Gobichettipalayam.

2. The Judicial Magistrate,
Sathyamangalam.

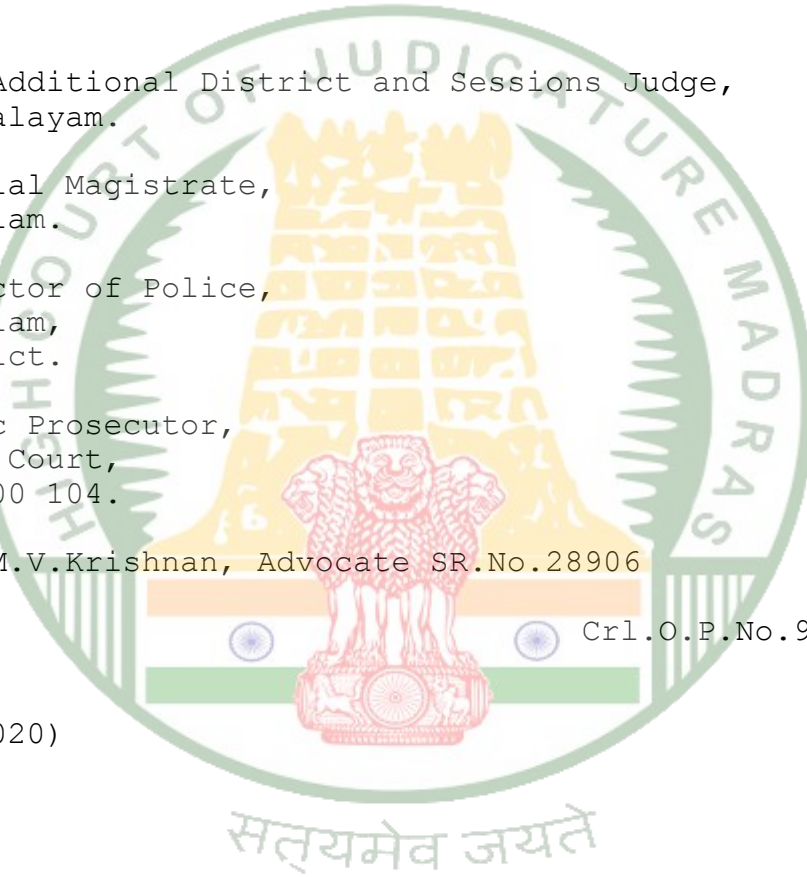
3. The Inspector of Police,
Sathyamangalam,
Erode District.

4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+1cc to Mr.M.V.Krishnan, Advocate SR.No.28906

Cr1.O.P.No.9346 of 2018

VGII (CO)
GMY (20/10/2020)



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