

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl OP.No.17460 of 2020

M. Venkatesan
S/o. Mohan Babu

...Petitioner

Vs.

The State through Inspector of Police
K-10, Koyambedu Police Station (Law and Order)
Chennai, Crime No.791 of 2020

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to modify the first condition imposed in the order passed by the learned V Metropolitan Magistrate, Egmore, Chennai, in CMP No.2373 of 2020 in Crime No.791 of 2020 dated 04.09.2020 and pass such other or further order as this Hon'ble Court may deem fit and proper on considering the above circumstance and thus render justice.

For Petitioner : Mr. L. Thiyagaiya
For Respondent : Ms. M. Prabhavathi
Additional Public Prosecutor

ORDER

Seeking to modify the first condition imposed by the V Metropolitan Magistrate, Egmore, Chennai, vide order dated 04.09.2020, in Crl.MP No.2373 of 2020 in Crime No.791 of 2020, this Criminal Original Petition has been laid by the petitioner.

2. Crl.MP No.2373 of 2020 has been preferred by the petitioner seeking for the return of the vehicle involved in Crime No.791 of 2020 on the file of the respondent police.

3. The court below, on a perusal of the case records and after hearing the submissions put forth by the petitioner's counsel and the respondent police, deemed it fit to order the return of the vehicle involved in the abovesaid crime number, on various conditions. Accordingly, inter alia, the petitioner had been directed to execute a bond for a sum of Rs.1,00,000/- with

one surety for the like amount for getting the custody of the vehicle. Seeking the modification of the abovesaid condition, the petitioner has come forward with the present Criminal Original petition.

4. As above pointed out, the court below, on consideration of the materials placed on record and after hearing the submissions put forth on both sides, considered it fit to return the custody of the vehicle to the petitioner on conditions. The petitioner is aggrieved by the first condition, abovestated, imposed by the court below. For the same, according to the petitioner, he is not having considerable source of income and therefore, considering the financial status of the petitioner, the abovesaid condition should be modified. However, when as per the above condition, the petitioner had only been directed to execute a bond for Rs.1,00,000/- with one surety for the like amount, in such view of the matter, the alleged insolvency of the petitioner does not merit acceptance as such for the modification of the abovesaid condition imposed by the court below. Therefore, the abovesaid reason put forth by the petitioner for modifying the first condition cannot be countenanced.

5. It is the further submission of the petitioner that, in the certificate of insurance of the vehicle concerned, the value of the vehicle has been disclosed only at Rs.33,000/- and therefore, the abovesaid condition imposed by the court below is onerous. However, on verification of the certificate of insurance, it is found that the value has been mentioned therein on the declared value given by the petitioner. There is no material placed on record to show as to for what price the vehicle in question had been purchased by the petitioner from the previous owner. In such view of the matter, the value as mentioned in the certificate of insurance, by itself, would not be the basis for fixing the value of the bond to be executed by the petitioner for getting back the custody of the vehicle.

6. Furthermore, when the vehicle had been seized on the ground that the same had been utilised for committing the offence involved in this matter, the court below had rightly, on an appreciation of the materials placed on record, directed the petitioner to execute a bond for Rs.1,00,000/- with one surety for the like sum and in such view of the matter, I do not find any error or infirmity in the abovesaid condition fixed by the court for ordering the return of the vehicle to the petitioner. The abovesaid condition cannot be held to be burdensome or heavy as sought to be projected by the petitioner.

7. In the light of the abovesaid reasons, I do not find any merit in the Criminal Original Petition. Resultantly, the Criminal Original Petition is dismissed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

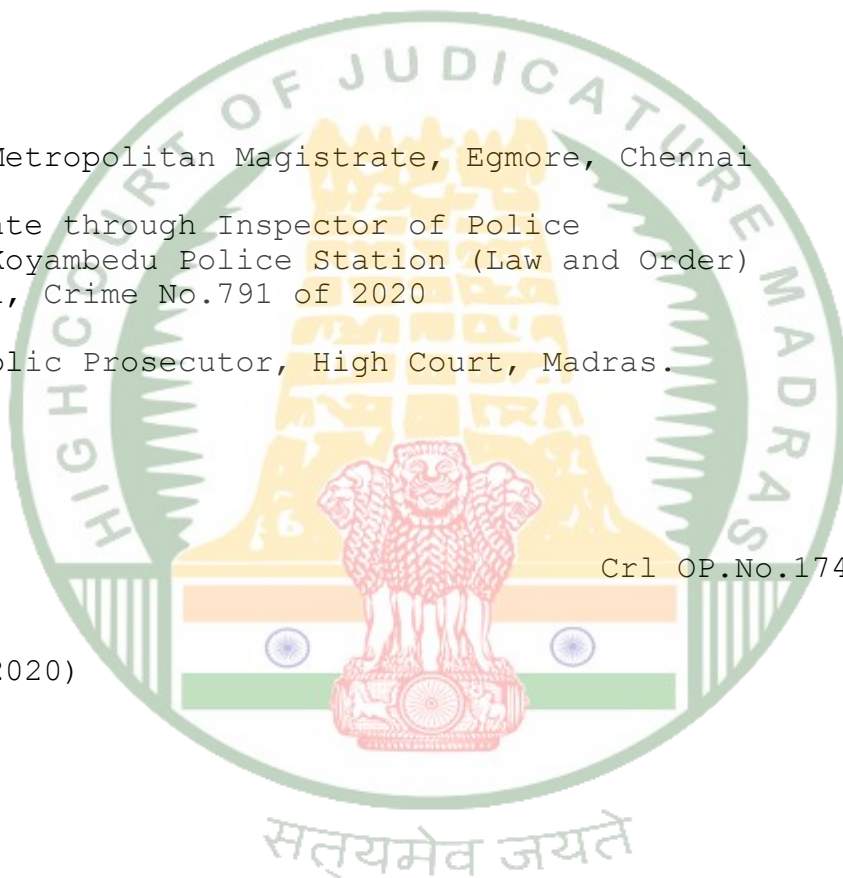
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Copy to

1. The V Metropolitan Magistrate, Egmore, Chennai
2. The State through Inspector of Police
K-10, Koyambedu Police Station (Law and Order)
Chennai, Crime No.791 of 2020
3. The Public Prosecutor, High Court, Madras.

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GP(CO)
SP(09/12/2020)



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