

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.No.1062 of 2020

Babu,
S/o.Rajan

.. Petitioner

/versus/

The State represented by
The Inspector of Police,
M-4 Thudiyalur Police Station,
Coimbatore District.
(Crime No.569/2019)

.. Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 of Code of Criminal Procedure filed to set aside the order dated 20.10.2020 made in C.M.P.No.2965 of 2020 on the file of the Judicial Magistrate No.I, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner, owner of the Ford Fiesta 16 ZXI Car bearing Registration No.TN 07 BE 6014 had filed a petition in Crl.M.P.No.2965 of 2020 before the Judicial Magistrate No.I, Coimbatore, seeking return of his car which was involved in Crime No.569 of 2019. The Lower Court by order dated 20.10.2020 dismissed the same. Against which the present Revision.

2.The gist of the case is that the Ford Fiesta 16 ZXI Car bearing Registration No. TN 07 BE 6014 was seized in Crime No.No.569 of 2019 for the offence under Section 454, 380 IPC on 19.02.2020 by the respondent from one Suresh @ Sulan Suresh, accused in this case. The petitioner is the brother of the said Suresh, on the arrest of the said Suresh, and in his confession he had stated about his family background and his involvement in house breaking and Robbery. He admitted that his brother, the petitioner herein has completed catering in Amirta Institute of Hotel Management, Trichy and thereafter he has been working as a driver. The petitioner's brother purchased a car bearing Registration No. TN 07 BE 6097 in the name of the petitioner and he has been using the car in aid of his commission of offence. The car was purchased from the ill-gotten money. The

petitioner's brother is the notorious person and committed several robbery.

3.The contention of the petitioner is that the petitioner has completed Catering Course in Amrita Institute of Hotel Management, Trichy. Thereafter he was working in Hotel Holidays, Electronic City, Bangalore and he purchased Car in his own money which is ten years old second hand car on 22.08.2019. In his absence, the brother of the petitioner took the vehicle and used the same. The petitioner is not aware of the activities of his brother. The vehicle belongs to the petitioner. Further after Covid-19 restriction the petitioner had lost his job and came back to his native and doing small works, added to it, the vehicle was seized by the respondent Police and has been kept in the yard exposing to the sun and rain thereby the vehicle becomes as the Scrub. If the vehicle is returned the petitioner could make some earning to sustain himself and her sisters. All the records of the vehicle is in the name of the petitioner. The vehicle was seized only based on the confession of the petitioner's brother. Hence, prayed for return of vehicle.

4.The learned Additional Public Prosecutor filed his counter and made his submission that the petitioner's brother Suresh @ Sulan Suresh is a regular offender committing house breaking and robbery continuously for the passed 10 years. The petitioner's brother is operating as a gang along with other accused targeting the closed house. On 19.02.2020, he was arrested with gold bars. The petitioner's brother confessed that he purchased a Car in the name of his brother and he has been using the Car regularly. It is seen that the vehicle in the commission of offence is in the custody of the petitioner's brother. The petitioner is only a name lender who is aged about 25 years and the Car is said to have been purchased in the year 2017. The petitioner has not produced any material or credential to show that he has got source for the purpose of the vehicle. The vehicle has been purchased with ill-gotten money it is admitted by the petitioner's brother. The confiscation proceedings are to be initiated. The Lower Court finding that the petitioner is only a name lender and he failed to produce the credential to show that the car was purchased in his income, has dismissed the petition.

5.Considering the submissions and perusal of the materials, it is seen that the petitioner's brother has been involving himself in house breaking and robbery from the year 2008 and he has been continuously involved in the similar nature of offences and the petitioner's brother Suresh @ Sulan Suresh admits in his confession that the Car has been purchased out of ill-gotten money. It appears that the petitioner is only a name lender. In view of the same, the petitioner is directed to approach the

Trial Court afresh and prove that the petitioner has got resources and he purchased the vehicle from his own sources by producing necessary documents and materials.

6. With the above direction, the Criminal Revision Case is disposed of.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rst

To:

1. The Judicial Magistrate No. I, Coimbatore.

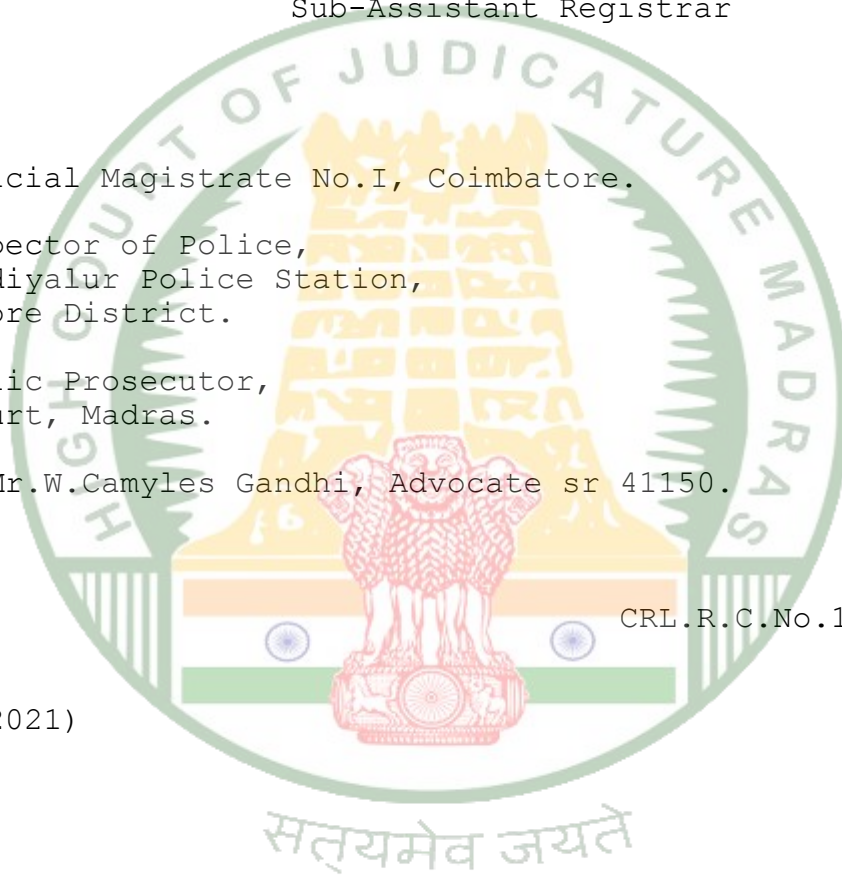
2. The Inspector of Police,
M-4 Thudiyalur Police Station,
Coimbatore District.

3. The Public Prosecutor,
High Court, Madras.

+1 Cc to Mr. W. Camyles Gandhi, Advocate sr 41150.

CRL.R.C.No.1062 of 2020

MP (CO)
SP (18/01/2021)



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