

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P No.31202 of 2019

A.Uma

... Petitioner/Owner
of the Vehicle

Vs.

State rep. by
The Inspector of Police,
Sooramangalam Police Station,
Salem District.
(Crime No.550 of 2019) ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order and modify the conditions 1 to 4 imposed in C.M.P.No.3054 of 2019, dated 23.10.2019 on the file of the Additional Mahila Court, Salem.

For Petitioner : M/s.A.Esakkiappan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to modify the condition Nos. 1 to 4 imposed in C.M.P.No.3054 of 2019 dated 23.10.2019 by the learned Judicial Magistrate, Additional Mahila Court (FAC), Salem.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

3. The petitioner is a mother of one A.Sabari Abisheik, who is an accused in Crime No.550 of 2019 on the file of the respondent police. The above crime has been registered for the offences punishable under Sections 294(b), 506 (i) of IPC, Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 67 of Information Technology (Amendment) Act, 2008.

4. In respect to the above referred crime number, the respondent police herein, during the time of investigation, recovered a Car bearing Registration No.TN 25 AL 5752 as a material object. The petitioner herein being an owner of the said vehicle filed a petition before the Additional Mahila Court, Salem, for return of vehicle in C.M.P.No.3054 of 2019, in which, the Additional Mahila Court, Salem, passed an order dated 23.10.2019 to return the vehicle to the petitioner by imposing the following conditions:-

1. Execute the two sureties worth a sum of Rs.4,00,000/- on behalf of the petitioner.
2. Till the disposal of the case, the petitioner could not able to sell the vehilce in TN 25 AL 5752 (Suzuki Ertiga)
3. Till the disposal of the case, the petitioner shall produce the vehicle in TN 25 AL 5752 (Suzuki Ertiga) every month of the first working day.
4. Till the disposal of the case, the original R.C.Book of the vehicle in TN 25 AL 5752 (Suzuki Ertiga) with custody of the Court.
5. The petitioner shall produce the photograph before the Court.

5. In respect of the said conditions, the learned counsel for the petitioner would submit that the conditions imposed by the Additional Mahila Court, Salem, is an onerous one. He would further submit that the petitioner being the owner of the vehicle has not at all involved in any crime and therefore, the above imposing conditions are onerous in nature.

6. In this regard, the learned Additional Public Prosecutor appearing for the respondent police conceded that the conditions imposed upon the petitioner for returning the Car is onerous one. He would specifically admit that the petitioner is not an accused in the above referred crime.

7. In a similar situation, at the time of passing orders in Crl.O.P.No.31824 of 2013, this Court, by relying the judgment of the Hon'ble Apex Court reported in 2003 (1) CTC 175, has passed the following order:-

"4. Considering the facts above stated and following the rationale of the Hon'ble Apex Court in Sunderbhai Ambalal Desai V. State of Gujarat, [2003 (1) CTC 175], this Court would permit the petitioner to effect sale of the vehicle subject to the condition that the petitioner shall approach the learned Judicial Magistrate IV, Salem, with a petition seeking permission to produce the vehicle before such Court. The learned IV Judicial Magistrate,

Salem, shall fix the date and time for production of the vehicle by the petitioner before him and cause photographs of the vehicle to be taken and prepare a detailed panchanama thereof.

5. After completion of the above process, the lower Court shall return the registration certificate of the vehicle to the petitioner. The petitioner shall then be liberty to deal with the vehicle in such manner as thought fit by him.

6. The photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with.

7. The above order is not determinate of the ownership or other rights in respect of the vehicle."

8. This Court also fully agrees with the terms of the order passed by this Court and following the same, the conditions imposed by the Additional Mahila Court, Salem, dated 23.10.2019 in C.M.P.No.3054 of 2019 is modified as follows:-

1. the Additional Mahila Court, Salem, shall make an arrangement for taking photograph of the vehicle and thereafter, prepare a detailed Panchanama thereof;

2. After verifying the ownership, return the said vehicle to the petitioner. In otherwise, photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with; and

3. It is made clear that the above referred order is not determined the ownership or other rights in respect of the vehicle.

With the above directions, the Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Judge,
Mahila Court, Salem.

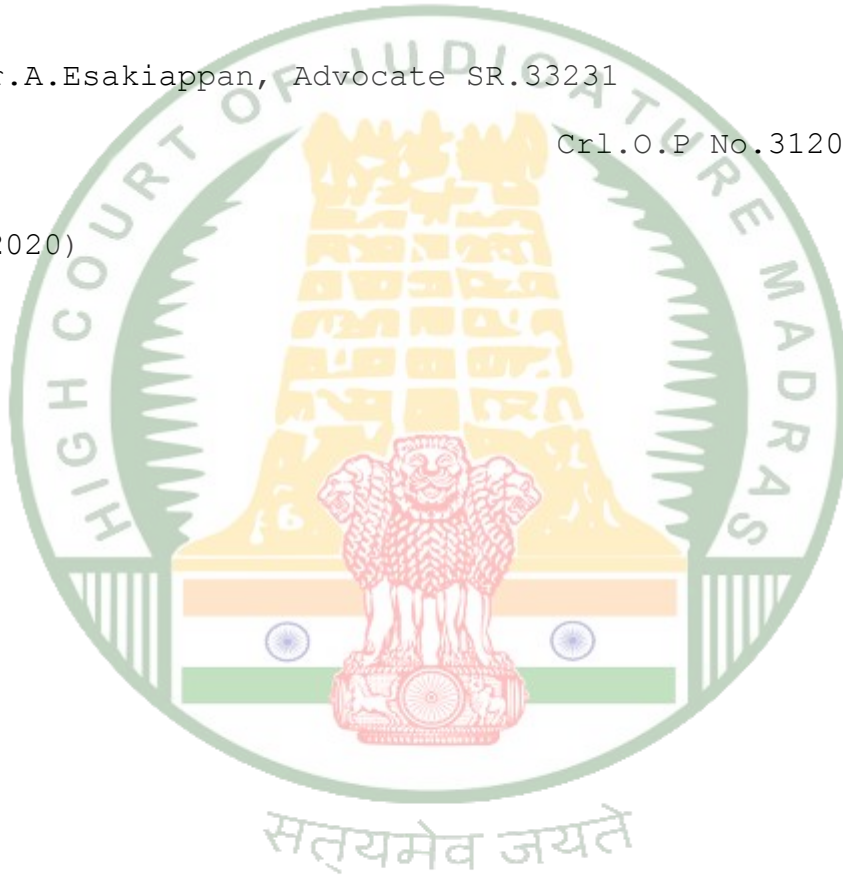
2.The Inspector of Police,
Sooramangalam Police Station,
Salem District.

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

+1cc to Mr.A.Esakiappan, Advocate SR.33231

Cr1.O.P No.31202 of 2019

NMI (CO)
CB(09/11/2020)



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