

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Cr1.O.P No.2567 of 2021

K.Prakash

Petitioner/Petitioner

vs.

The State rep. by
The Inspector of Police,
B-3, Variety Hall Road Police Station,
Coimbatore District.
(Crime No.1078 of 2020)

Respondent/Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the conditions 1 to 4 imposed in C.M.P.No.647 of 2020 dated 28.12.2020 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore and by allowing this Criminal Original Petition.

For Petitioner : Mr.S.Vinoth Kumar

For Respondent : Mr.C.Raghavan,
Government Advocate

ORDER

This petition has been filed aggrieved by the conditions imposed by the Court below while allowing the application filed by the petitioner for return of vehicle.

2.The petitioner is the owner of the vehicle and his vehicle became a material object in a crime that was registered in Crime No.1078 of 2020 under the POCSO Act. A reading of the complaint shows that it is a case of elopement and it is stated that the vehicle belonging to the petitioner was used by the accused person for the purpose of eloping with the victim girl.

3.The petitioner filed an application under Section 451 Cr.P.C. seeking for return of vehicle. The Court below while allowing the application, imposed the following conditions:

- 1) Direct the petitioner/owner of the property to execute a bond of Rs.2,00,000/- (Rupees Two Lakhs only) along with him id proof, Aadhar copy and the copy of bank pass book and to produce two sureties for a like sum each with

the solvency certificate.

- 2) Direct the petitioner/owner of the property to give an undertaking that he shall not sell (or) mortgage (or) alter the fore said vehicle.
- 3) Direct the petitioner/owner of the property to produce the original R.C. Book before this Court and four photos of the vehicle taken on all four sides.
- 4) Direct the petitioner/owner of the property to produce the vehicle before this Court on the 1st working day of every month without fail unit further orders.
- 5) Direct the petitioner/owner of the property to produce the photos of the vehicle / Two wheeler on all the four sides and also direct the petitioner shall sign on the back side of the photos.

4. Aggrieved by the conditions imposed by the Court below, the present petition has been filed before this Court.

5. The learned counsel for the petitioner submitted that the Court below failed to take note of the fact that the petitioner is not an accused in this case. The learned counsel further submitted that the conditions imposed by the Court below is onerous and virtually the petitioner has been deprived from using or disposing of his own vehicle.

6. In the considered view of this Court, the Court below ought not to have imposed such onerous conditions while allowing the application filed for return of vehicle. The Court below failed to take note of the guidelines issued by this Court while dealing with cases involving return of vehicle. This Court has repeatedly held that in a case of this nature, vehicles will have to be photographed and panchanama should be drawn and thereafter the vehicle should be returned back to the owner without imposing any other conditions. The guidelines have been given by this Court in the case of Selvam and Others vs. State and Others reported in 2012 2 CTC 549 and in the case of K.Ramar vs. State of Tamil Nadu reported in 2013 1 MLJ CrL 101.

7. In view of the above discussion, the order passed by the Court below in CMP.No.647 of 2020, dated 28.12.2020 is hereby set aside and the matter is again remanded back to the Court below to pass orders in line with the guidelines issued by this Court in the judgement referred supra. The final order shall be passed, within a period of two weeks from the date of receipt of copy of this order.

8.In the result, this criminal original petition is allowed with the above directions.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

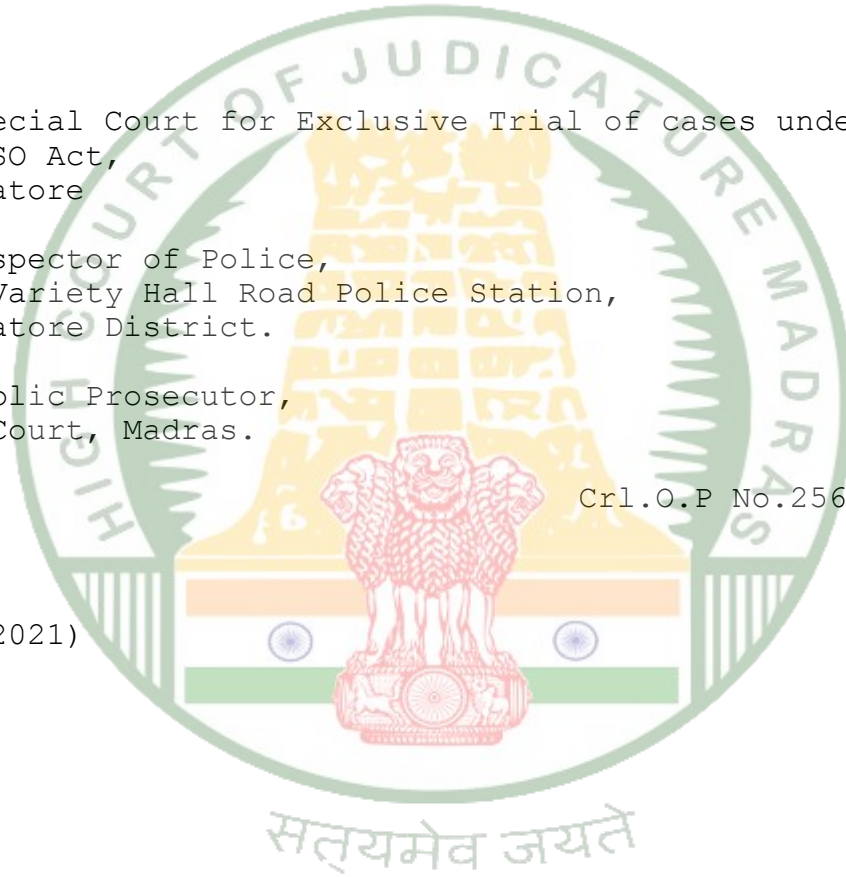
ssr

To

1. The Special Court for Exclusive Trial of cases under
POCSO Act,
Coimbatore
2. The Inspector of Police,
B-3, Variety Hall Road Police Station,
Coimbatore District.
3. The Public Prosecutor,
High Court, Madras.

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SRA (CO)
GN (17/03/2021)



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