

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.18451 of 2020

A.Jayakumar

... Petitioner/Petitioner

vs.

The State of Tamil Nadu
Rep. By The SHO,
Kadampuliyur P.S.,
Kadampuliyur, Panruti Taluk,
Cuddalore District.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439(1)(b) of the Code of Criminal Procedure, to modify order dated 25.08.2020 passed in Crl. M.P. No.775 of 2020, on the file of the Judicial Magistrate - II, Panruti.

For Petitioner : Mr.D.Senthil Kumar

For Respondent : Mr.Mohammed Riyaz

Additional Public Prosecutor

ORDER

This Petition has been filed aggrieved by the conditions imposed by the Court below by allowing the application filed by the petitioner seeking for return of his vehicle in Crime No.542 of 2020.

2. The case of the petitioner is that he had parked his vehicle in front of the house of his father-in-law, on 14.06.2020. There was some clash between two groups and as a result of which the car belonging to the petitioner was badly damaged. This car was seized by the respondent police in the course of investigation, since this car was one of the material object in this case.

3. The petitioner filed an application before the Court below seeking for return of the vehicle and the application came to be allowed by the Court below by an order dated 25.08.2020 by imposing certain conditions. Aggrieved by the conditions imposed by the Court below, the present petition has been filed seeking for modification of the conditions.

4. The learned counsel for the petitioner submitted that the petitioner is involved in the business of selling second hand cars and the vehicle which got involved in the present case was also a car which was supposed to be sold in the course of his business. The learned counsel further submitted that the conditions imposed by the Court below will virtually prevent the petitioner from dealing with his car and more particularly where the petitioner had nothing to do with the offence and the car belonging to the petitioner, unfortunately got damaged during some violent incident between two groups.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

6. This Court has carefully considered the submissions made by the learned counsel on either side and also the material available on record.

7. In the considered view of this Court, the petitioner is a third party and he has nothing to do with the alleged incident which resulted in a criminal case. Unfortunately the car belonging to the petitioner was also damaged during the violent clash and it is sought to be produced as a material object in the case. In a case of this nature, this court has repeatedly held that the Court must avoid holding the vehicles and rather follow a procedure by causing necessary photographs of the vehicle and preparing a panchnama. This can be marked at the time of the trial and sufficient guidelines have been given by this Court in this regard. Useful reference can be made to the judgment of this Court in *Selvam and Ors. Vs. State and Ors.*, reported in (2012) 2 CTC 549, and *K. Ramar Vs. State of Tamil Nadu*, reported in 2013 (1) MLJ (Cr1) 101.

8. In view of the above, this Court is inclined to interfere with the conditions imposed by the Court below while allowing the application filed by the petitioner for return of vehicle in Cr1. MP. No.775 of 2020 in Cr. No.542 of 2020. The matter is remanded back to the file of the Judicial Magistrate No.II, Panruti, The learned Magistrate is directed to follow the guidelines issued by this Court, wherein necessary directions were given to take photographs and preparing a panchnama in *Selvam and Ors. Vs. State and Ors.*, reported in (2012) 2 CTC 549, and *K. Ramar Vs. State of Tamil Nadu*, reported in 2013 (1) MLJ (Cr1) 101. After the completion of the process, the vehicle shall be handed over to the petitioner to enable the petitioner to deal with the property. This process shall be completed within a period of four weeks from the date of receipt of copy of this order.

9. This Criminal original Petition is disposed of with the above directions.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jv
To

1.The Judicial Magistrate No.II
Panruti

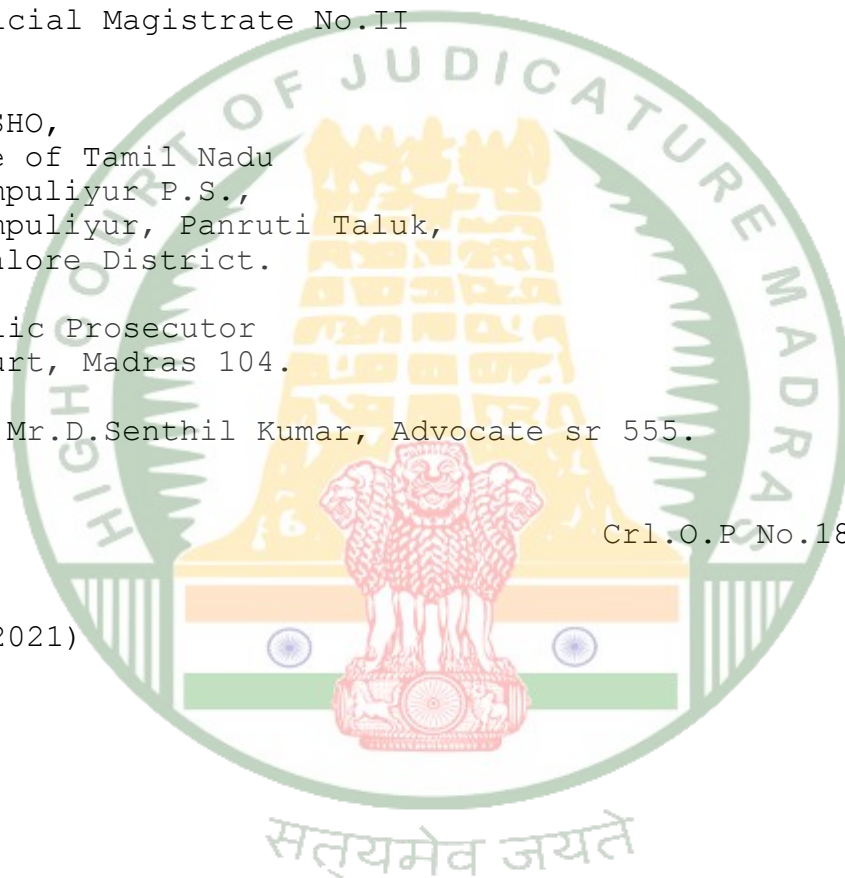
2. THE SHO,
State of Tamil Nadu
Kadampuliyur P.S.,
Kadampuliyur, Panruti Taluk,
Cuddalore District.

3.The Public Prosecutor
High Court, Madras 104.

+2 CCS to Mr.D.Senthil Kumar, Advocate sr 555.

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MG(CO)
SP(08/01/2021)



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