



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.19460 of 2021

B.Sudharshan

... Petitioner

Vs

State represented by
The Inspector of Police,
Rameshwaram Town Police Station,
Rameshwaram,
Ramanathapuram District.
(Crime No.106 of 2021)

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to direct the learned Judicial Magistrate, Rameshwaram, Ramanathapuram District to number the petition in Cr.M.P.No.Nil of 2021 dated 26.10.2021 and dispose the same on merits within the stipulated time.

For Petitioner	: Mr.T.Veerakumar
For Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl.)

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. The petitioner is working as a delivery boy at E-Com Company. On 07.04.2021 at about 3.50 pm., when he was riding his two wheeler bearing Registration No.TN 65 AK 6904 (Yamaha FZ), a lorry is said to have hit the petitioner. The petitioner sustained grievous injuries. He was admitted to the hospital and later discharged. In this regard, Crime No.106 of 2021 was registered on the file of the respondent police. The petitioner filed a petition under Section 451 r/w Section 457 of Cr.P.C. before the Judicial Magistrate, Rameshwaram for directing the respondent police to hand over the vehicle and for returning the vehicle to him. The said petition was returned by the court below as not maintainable. It was re-presented and once again, it was returned on the ground of maintainability. Aggrieved by the same, this criminal original petition has been filed for directing the learned Judicial Magistrate, Rameshwaram to number the petition filed by the petitioner and dispose of the same on merits.



2.1. The learned counsel appearing for the petitioner submitted that under Section 457 of Cr.P.C., the Magistrate can give direction to the police to produce the property before the Court.

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3. A careful reading of Section 457 of Cr.P.C., leads one to the conclusion that the Magistrate can exercise the power under the said provision only whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of the Code. In this case, admittedly, till date, the respondent police have not reported the seizure of the property to the Magistrate and that is why, the learned Magistrate rightly declined to number the petition. It is not as if the petitioner is remedyless. He can move this Court either under Article 226 of the Constitution of India or under Section 482 of Cr.P.C for directing the authority who seized the vehicle to return the vehicle to him.

4. The learned Government Advocate submitted that when the vehicle was produced for inspection before the RTO, he could not produce any document and that the police are retaining the vehicle with themselves only pursuant to the direction of the RTO.

5. In the typed set of papers, the petitioner has produced the copies of the driving license, insurance policy and the RC book. More than anything else, the respondent police have seized the vehicle only from the petitioner. The petitioner is having the documents to show his ownership.

6. Therefore, the respondent is directed to return the vehicle to the petitioner forthwith and without any delay. The respondent will take the photographs of the damaged vehicle.

7. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Judicial Magistrate, Rameshwaram, Ramanathapuram District.

2. The Inspector of Police,
Rameshwaram Town Police Station,
Rameshwaram,
Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.VEERAKUMAR, Advocate (SR-38062[F] dated 09/12/2021)

Crl.O.P (MD) No.19460 of 2021
09.12.2021

PS (CO)
TR(13.12.2021) 3P 5C