



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 22.12.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.963 of 2021

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.. Petitioner / 3rd Party

Vs.

State Represented by the
The Inspector of Police,
S.S. Colony Police Station,
Madurai.

(Crime No.1101 of 2021)

.. Respondent/ Complainant

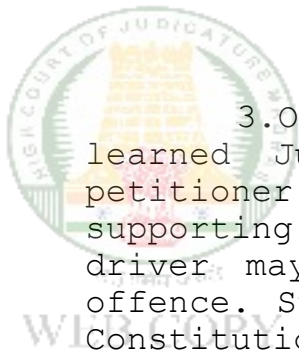
Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to order passed in Crl.M.P.No.3518 of 2021 dated 10.12.2021 passed by the learned Judicial Magistrate No.V, Madurai and to set aside the same and consequently release the petitioner's vehicle bearing registration no.TN-01-BH-6166 (INNOVA Crysta) within a stipulated time.

For Petitioner	: Mr.S.Chellapandian
For Respondent	: Mrs.M.Aasha
	Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.3518 of 2021 dated 10.12.2021, on the file of the learned Judicial Magistrate No.V, Madurai, to grant interim custody of vehicle bearing Registration No.TN-01-BH-6166 to the petitioner.

2.The petitioner claims to be the owner of the vehicle bearing registration No.TN-01-BH-6166, which was seized by the respondent Police in Crime No.1101 of 2021 under Sections 294(b), 341, 324, 332, 506(ii) of IPC and Section 3 of TNPPDL Act, has filed a petition in Cr.M.P.No.3518 of 2021 before the learned Judicial Magistrate No.V, Madurai, for the return of the vehicle. That petition was dismissed by the trial Court. Against which, the petitioner has preferred this revision case.



3.On the side of the petitioner, it is stated that the learned Judicial Magistrate has made an observation that the petitioner has to implead the driver of the vehicle and to file a supporting affidavit signed by the driver. An affidavit from the driver may be interpreted, as if the driver was admitting the offence. Such a statement amounts to breach of fair trial under the Constitution of India and hence, such an affidavit cannot be obtained from the driver. The vehicle is kept in the open space for the past one month and prayed the vehicle to be returned for interim custody.

4.On the side of the respondent, it is stated that the complainant is the driver of TNSTC bus. Near Arapalayam, in an attempt to overtake the bus, the driver of the petitioner's vehicle dashed against the front portion of the bus. When the same was questioned by the defacto complainant, the petitioner scolded the defacto complainant and the conductor in filthy language and he damaged the bus by throwing stones and he caused injuries to the defacto complainant and the conductor. The driver was arrested and he was released on bail. The trial Court has rightly dismissed the petition. The investigation is still pending and prayed the petition to be dismissed.

5.It is seen that the trial Court has called for supporting affidavit from the driver, since the vehicle was alleged to have been seized from the custody of the driver. There is a chance admission of seizure of the vehicle to be considered as admission of the offence. In the above circumstances, getting such an affidavit from the driver is not reasonable. It is seen that the petitioner is the owner of the vehicle. RC stand in the name of the petitioner. The vehicle was seized on 22.11.2021. Keeping the vehicle idle exposing the same to climatic condition will spoil the value of the vehicle. Hence, this Criminal Revision Case is allowed and the order of the learned Judicial Magistrate No.V, Madurai in Cr.M.P.No.3518 of 2021 is set aside and the learned Judge is directed to return the vehicle to the petitioner for interim custody subject to the confiscation proceedings on the following conditions:

(i)The petitioner is directed to execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Madurai ;

(ii)The petitioner shall deposit the original Registration Certificate of the vehicle with the learned Judicial Magistrate No.V, Madurai ;

(iii)The petitioner shall not alienate and shall not make any alteration in the vehicle ;

(iv)The petitioner shall produce the vehicle before the Court and before the respondent as and when required and this order is subject to the final

<https://hcservices.ecourts.gov.in/hcservices/> be passed in the confiscation



proceedings ;

(v) If the aforesaid conditions are not complied, the order of interim custody of vehicle stands automatically cancelled.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Mrn

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 No.V,
Madurai.
- 2.The Inspector of Police,
S.S. Colony Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-40324[F] dated 23/12/2021)

Crl. R.C.(MD)No.963 of 2021
22.12.2021

RD(7.01.2022) 3P 5C