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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.928 OF 2021

D.Srinivasan

...Petitioner / Defacto Complainant

Vs.

State Represented by
The Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu.
(Crime No.508 of 2015)

...Respondent / Complainant

PRAYER : The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order passed by the Judicial Magistrate Court-II, Chengalpattu in C.M.P.No.17 of 2021 in P.R.C.No.3 of 2015 dated 05.02.2021 and permit the petitioner to sell the Mercedes Benz Car bearing Model S320 CDI bearing registration No.TN-09-BE-2229.

For Petitioner : Mr.T.T.Ravichandran

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

(This case has been heard through Video conferencing)

This Criminal Revision has been filed against the dismissal of the petition passed by the Judicial Magistrate No.II, Chengalpattu in C.M.P.No.17 of 2021 in P.R.C.No.3 of 2015, seeking permission to sell the car.

2. The submissions of Mr.T.T.Ravichandran, learned counsel appearing for the petitioner are as under :-

(a) The petitioner is the owner of Mercedes Benz S320CDI Car bearing registration No.TN-09-BE-2229. The car was taken by his brother in law, Abhinesha Babu to go to Gingee on 30.07.2015. On the same day, at 1.20 p.m., the petitioner received an information from the driver Dinesh Kumar, stating that when his brother in law had got down near Chengalpattu toll gate to buy tender coconuts, three assailants who had followed them had intercepted and murdered his brother in law by attacking him indiscriminately with machetes.



(b) On the compliant given by the petitioner, a case in Crime No.508 of 2015 was registered for the offences under Sections 120(B) and 302 IPC against four known persons and three unknown assailants. The respondent, after completion of investigation, filed the final report and the case was taken up in the P.R.C.No.3 of 2016. The car of the petitioner was seized by the respondent as a case property and it was parked in the police station. The petitioner had filed a petition for return of property and it was returned to him with a condition that it should not be disposed till conclusion of trial. Subsequently, the petitioner had filed a Crl.M.P.No.17 of 2021 seeking permission to dispose the car. However, the learned Magistrate, by an order dated 05.02.2021, had dismissed the petition stating that if the petition is allowed at that stage, it might turn out to be fatal to the prosecution case.

(c) According to the petitioner, there is no requirement for marking this car as a case property, because, it is the case of the prosecution that the incident had happened when the deceased alighted from the car to buy tender coconuts and to his knowledge, there is no blood stain on the car and there is no requirement for marking the car. The petitioner finds it difficult to maintain the vehicle and the value of the vehicle is also diminishing, he had intended to dispose of the vehicle and he would seek to set aside the order and seek permission to sell the car.

3. Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that in this case, the victim was done to death when he had alighted from the car to buy tender coconuts and thereby, the car was seized by the respondent and now the case has been committed to the Court of Sessions and it has been taken up for trial in S.C.No.206 of 2021. He would submit that LW1, 2 & 3 are the persons who speak about the deceased, having alighted from the car and the car has to be identified by the witnesses, during trial. He would further submit that the case stands posted to 21.01.2022 for examination of witnesses and there is every possibility of the witnesses being examined on the same day and thereafter, the petitioner can renew his Application seeking permission to sell the car and a direction may be issued to the Trial Court concerned to pass appropriate orders.

4. Heard the learned counsel and perused the materials available on record.

5. It is reported by the learned Government Advocate (Crl.Side) that the case is ripe for trial and it stands posted for examination of crucial witnesses on 21.01.2022 and it is also stated that the car is required to be marked during trial.



6. In view of the above, the present petition stands disposed of, granting liberty to the petitioner to renew the Application before the Trial Court concerned, after the examination of witnesses in connection with the car, is completed.

Sd/-
Assistant Registrar(CS-IIII)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate Court No.II,
Chengalpattu.
- 2.(do through) The Chief Judicial Magistrate,
Chengalpattu.
- 3.The Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu.
- 4.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.T.T.Ravichandran, Advocate Sr.No.1870

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GJ(CO)
RVM(28/01/2022)