



BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED : 24.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.66 of 2021

WEB COPY

Mariappan ... Petitioner/owner of the vehicle

Vs.

1.The State represented by,
The Inspector of Police,
Sengottai Police Station,
Tenkasi District.
(Crime No.13 of 2020). ... 1st Respondent/Complainant

2.Sankar ... 2nd Respondent

(R - 2 impleaded vide order dated 05.03.2021
in Crl.M.P(MD)No.1976 of 2021)

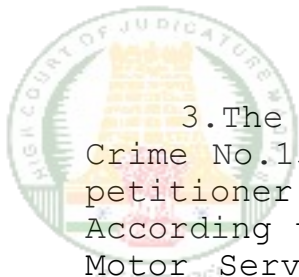
PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed in Cr.M.P.No.1957 of 2020, dated 28.10.2020 on the file of the learned Judicial Magistrate, Shencottai in P.R.C.No.9 of 2020 in Crime No.13 of 2020 on the file of the respondent Police and set aside the same and direct the first respondent to release the petitioner's vehicle Toyota Innova Car bearing Registration No.TN-20-AM-0003.

For Petitioner : Mr.B.Ramanathan
For R - 1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed challenging the order passed in Cr.M.P.No.1957 of 2020, dated 28.10.2020 on the file of the learned Judicial Magistrate, Shencottai in P.R.C.No.9 of 2020 in Crime No.13 of 2020 on the file of the respondent Police, thereby dismissed the petition filed for return of the vehicle bearing Registration No.TN-20-AM-0003.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.



3.The vehicle was seized in pursuant to the F.I.R registered in Crime No.13 of 2020 for the offence under Section 397 of I.P.C. The petitioner is not an accused and he is the owner of the vehicle. According to the prosecution, the defacto complainant running a Tata Motor Service Station. One of the accused is the customer of the defacto complainant. The accused asked the defacto complainant to join with him as one of the share holder in a new Motor Company, which started in a foreign Country, if the defacto complainant joined with the company as share holder, he would earn Rs.10,00,000/- per month. However, the defacto complainant refused and not willing to join with the accused. Thereafter, the accused insisted the defacto complainant to give some amount and to join as a partner. Therefore, the defacto complainant on 09.01.2020 along with cash of Rs.1,00,000/-, as directed by the accused, he was about to hand over the cash, the accused persons robed the said amount with a knife point and they used the subject car for the commission of offence.

4.While pending investigation, the petitioner filed a petition in Cr.M.P.No.1957 of 2020 on the file of the learned Judicial Magistrate, Shencottai, for return of his vehicle on the ground that the said vehicle has been purchased by the petitioner even before the date of occurrence from one Sankar residing at Chennai. Since the first accused is the known person to the petitioner, he had taken the car for his urgent need and committed offence. However, the petitioner failed to transfer the ownership of the said vehicle and as such, he submitted transfer of ownership form on 05.10.2020 and accordingly, the ownership of the vehicle has been transferred in favour of the petitioner. However, the learned Magistrate dismissed the petition for return of vehicle for the reason that the transfer of ownership has to be submitted within a period of 14 days from the date of sale and when the vehicle was in custody from 01.07.2020, the ownership of the vehicle transferred in favour of the petitioner is not possible and as such, the petitioner did not file the petition with bonafide intention.

5.Admittedly, there is no rival claim in respect of the said vehicle. That apart, the vehicle is in custody from 01.07.2020. Now, the registration certificate stands in the name of the petitioner.

6.Considering the above, the order passed in Cr.M.P.No.1957 of 2020, dated 28.10.2020 on the file of the learned Judicial Magistrate, Shencottai, is set aside and the Criminal Revision Case is allowed. The learned Judicial Magistrate, Shencottai, is directed to return the vehicle, subject to the fulfillment of the following conditions by the petitioner:-

(i) Accordingly, the petitioner shall execute a bond for a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) before the learned Judicial Magistrate, Sengottai,

<https://hcservices.ecourtsgov.in/hcservices> and return the vehicle within a period of four weeks from the date of receipt of a



copy of this order.

(ii) The petitioner shall surrender the original Registration Certificate of the vehicle before the learned Magistrate, Sengottai;

(iii) the petitioner shall give an unconditional undertaking to the first respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings.

(iv) the petitioner shall not change the colour and scheme of the vehicle.

(v) the petitioner shall not use the vehicle for any illegal activities.

(vi) before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vii) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the first respondent.

(viii) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Ps

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,
Shencottai.

2.The Inspector of Police,
Sengottai Police Station,
Tenkasi District.

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

4.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.B.RAMANATHAN, Advocate (SR-8662[F] dated 25/02/2022)

Order made in
Crl.R.C (MD) No.66 of 2021
24.02.2022

PKP/12.03.2022/5P/6C