



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.2380 of 2022

WEB COPY

K.Karthik

... Petitioner

Vs.

1.The State Rep. by
The Inspector of Police,
Valandhur Police Station,
Madurai District.
Crime No.90 of 2010.

2.A.Saravanan

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the learned Judicial Magistrate No.II, Usilampatti to take the Cr.M.P.unnumbered/2021 in C.C.No.70 of 2011 petition filed under Section 452 of Cr.P.C by the petitioner, on file without any condition; and to hear and dispose the same on merits, within a stipulated time.

For Petitioner	:	Mr.N.Karthik Kanna
For R1	:	Mr.M.Sakthi Kumar
		Government Advocate (Crl. side)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the first respondent. Considering the nature of relief to be granted, issuance of notice to the second respondent is dispensed with.

2.The petitioner was figuring as an accused in C.C.No.70 of 2011 on the file of the learned Judicial Magistrate No.II, Usilampatti. The case ended in conviction vide judgment dated 28.09.2012. Questioning the same, the accused filed Crl.A.No.71 of 2012 before the V Additional District and Sessions Judge, Madurai. By judgment dated 15.04.2016, the appeal filed by the accused was allowed and the judgment of conviction and sentence was set aside. During the pendency of the trial, interim custody of the vehicle in question was handed over to the financier.

3.The case of the petitioner is that since the petitioner has been acquitted, the interim custody earlier granted to the vehicle owner should be recalled and possession of the vehicle should be handed over to the petitioner herein.



4.The petitioner filed petition seeking return of the vehicle. The learned Trial Magistrate has declined to number the same. Challenging the endorsement of return, this petition has been filed. The contention of the petitioner's counsel that as an automatic consequence of acquittal, the vehicle in question should be handed over to the petitioner cannot be accepted. There is however merit in the contention that the learned Trial Magistrate ought to have passed an order regarding the custody of vehicle, when the trial was concluded. Section 452 of Cr.P.C., empowers the trial Court to pass orders for disposal of property at the conclusion of trial. This power can be exercised even in an independent proceeding. Therefore, the petition filed by the petitioner is very much maintainable.

5.The learned Trial Magistrate is directed to number the petition. Notice, of course, has to be issued to the financier. After hearing both the parties, the learned Judicial Magistrate No.II, Usilampatti, will decide who is entitled to possession of the vehicle. Based on the said conclusion, order regarding custody can be made. I make it clear that I have not gone into the merits of the matter. The learned Judicial Magistrate No.II, Usilampatti will decide on the merits of the claim between the petitioner and the financier.

6.The Criminal Original Petition is allowed on these terms.

7.Registry is directed to return the original petition filed by the petitioner. The petitioner shall re-present the same before the learned Judicial Magistrate No.II, Usilampatti. The re-presented petition shall be numbered and notice shall be ordered to the financier/other interested parties, if any. The enquiry shall be concluded within a period of six weeks after service of notice on the financier.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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.II, Usilampatti.

2. The Inspector of Police,
Valandhur Police Station,
Madurai District.

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

+1 CC to M/s.N.KARTHIK KANNA, Advocate (SR-4371[F] dated
04/02/2022)

Crl.O.P(MD)No.2380 of 2022

04.02.2022

USK/21.02.2022/3P/5C