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Crl.R.C.No.110 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.110 of 2023

Thirukumaran

... Petitioner

Vs.

The Inspector of Police,
Vedaranyam Police Station,
Nagapattinam District
Crime No.151 of 2022

... Respondent

PRAYER: Criminal Revision Case filed under sections 397 and 401 of Cr.P.C., to call for the records and set aside the order dated 11.10.2022 passed by the learned District Munsif cum Judicial Magistrate (FAC), Vedaranyam, Nagapattinam District in Crl.M.P.No.2750 of 2022 in Crime No.151 of 2022 and to return the TATA Zest Car Vehicle bearing Regn.No.TN-66-P-4099, Chasis No.MAT624028ELN31025 and Engine No.101A20000545436 to the custody of the petitioner.

For Petitioner : Mr. N. Palanivel

For Respondent : Mr. V. Meganathan
GA (crl.side)



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ORDER

This Criminal Revision Case is filed challenging the order dated 11.10.2022 passed by the learned District Munsif cum Judicial Magistrate (FAC), Vedaranyam, Nagapattinam District in Crl.M.P.No.2750 of 2022 in Crime No.151 of 2022, dismissing the petition seeking return of vehicle bearing Regn.No.TN-66-P-4099 belonging to the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle bearing Regn.No.TN-66-P-4099. He had purchased it from one Hariharan for a sum of Rs.2,70,000/-, pursuant to which, the ownership of the vehicle has also been transferred from the said Hariharan's name into petitioner's name. The respondent police has seized his vehicle in Crime No.151 of 2022. He is not connected with the case registered by the respondent police and his name is not found in FIR. Hence, he filed an application before the trial court in Crl.M.P.No.2750 of 2022 seeking return of the vehicle to him, but the trial court without properly appreciating the registration certificate filed by the petitioner, held



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that the petitioner is not the owner of the vehicle. He further submitted that though he filed Form 24 (Moto Vehicle Register), Tamil Nadu Transport Department Authority – Udumalpet RTO, Form of Note of Transfer of Ownership of Motor Vehicle – Form 29 and Application for intimation and transfer of ownership of a Motor Vehicle (Form 30) and a letter from the said Hariharan to this petitioner to prove that the vehicle has been sold by the said Hariharan to the petitioner for a sum of Rs.2,70,000/- and also the transfer of ownership, the trial court without considering the said documents in a proper perspective, dismissed the petition observing that the petitioner has not produced any records to show that the vehicle belongs to him. Hence, the impugned order is liable to be set aside

3. He further submitted that the vehicle has been kept uncared under idle condition being exposed under unconditional weather conditions, due to which, the value of the vehicle will be drastically deteriorated. He is abide by any condition that may be imposed on him while releasing the vehicle. Thus he seeks interim custody of the vehicle.



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4. The learned Govt Advocate (crl.side) conceded that the petitioner is not named as an accused in the FIR and the transfer of ownership of the vehicle is mentioned in the registration certificate in Form 24.

5. Heard both sides and considered the materials available on record.

6. On perusal of records, the fact reveals that the respondent police had registered a case against the accused persons in Crime No.151 of 2022 for the offences punishable under sections 147, 323, 294(b), 506(20, 363 and 379 IPC and also seized the vehicle viz., TATA Zest Car Vehicle bearing Regn.No.TN-66-P-4099. Admittedly, the petitioner is not an accused in the case registered in Crime No.151 of 2022 and further the Form 24 issued by the Motor Vehicle Authorities (Motor Vehicles Registration) reveals the fact that originally the vehicle was registered on 10.4.2015 in the name of Hariharan as owner, subsequently the same got re-transferred in the name of this petitioner Thirukumaran on 8.5.2019, but the trial court



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erroneously recorded that Hariharan is the present owner and the petitioner is the previous owner and dismissed the petition seeking for interim custody of the vehicle. Therefore, the impugned order passed by the trial court is unsustainable on fact. Hence, the same deserves to be set aside.

7. In the judgment of the Hon'ble Apex court in ***Sunderbhai Ambalal Desai vs State Of Gujarat, wherein***, the Hon'ble Supreme Court in paragraph No.17 has held as follows:

"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

Under these circumstances, considering the above principle laid down by the Honourable Supreme Court in the case cited supra, I am inclined to return the vehicle on interim custody to the petitioner on the following conditions.



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8. Accordingly, the impugned order passed by the Court below is set aside and the court below is directed to return the vehicle TATA Zest Car bearing Regn.No.TN-66-P-4099 to the petitioner, on complying the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C. Book and other relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.1,50,000/-(Rupees one lakh fifty thousand only) before the District Munsif cum Judicial Magistrate (FAC), Vedaranyam, Nagapattinam District
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,
- v. the petitioner shall take photograph of the vehicle; and
- vi. the petitioner shall also produce the vehicle as and when required before the court below and



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before the respondent police.

9. Accordingly, the Criminal Revision is allowed.

24.01.2023

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Index:Yes/no

Internet:Yes/No

To

1. The District Munsif cum Judicial Magistrate (FAC), Vedaranyam, Nagapattinam District.
2. The The Inspector of Police, Vedaranyam Police Station, Nagapattinam District.
3. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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