



Crl.R.C.No.982 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

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Hariharasudhan

... Petitioner

Vs.

State by Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District
(Crime No.513 / 2022)

...
Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code to call for the records relating to the order dated 06.04.2023 made in Crl.MP.1815 of 2023 in PRC.No.05 of 2023 on the file of the Court of the Judicial Magistrate No.II, Ulundurpet in Crime No.513 of 2022 of Thirunavalur police station, Kallakurichi District and set aside the same and direct the respondent herein to return the vehicle / Auto bearing Reg.No.TN06 AC 4912.

For Petitioner : Mr.C.Ganesh Pandian

For Respondent : Mr.J.Subbiah, GA (Crl. Side)



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ORDER

The petitioner has filed the present revision petition against the order dated 06.04.2023 passed by the learned Judicial Magistrate No.I, Ulundurpet in Cr.MP.No.1815 of 2023 in Cr.No.513 of 2022 registered by the Inspector of Police, Thirunavalur Police Station, Kallakurichi. The revision petitioner who is the owner of the vehicle, filed the above petition under Section 451 Cr.PC for return of Auto bearing Registration No.TN06-AC-4912 which was seized by the Inspector of Police, Thirunavalur Police Station, Kallkurichi in connection with Cr.No.513 of 2022 for the offences punishable under Sections 294(b), 397 and 506(ii) of IPC. According to the prosecution, the petitioner along with the other accused persons way laid the defacto complainant and committed robbery by snatching his mobile phone and ear phone and threatened to kill him.

2. The petition filed by the revision petitioner for return of property under section 451 Cr.PC was dismissed by the trial Court on the ground that the Auto was used for commission of the offence and



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therefore the vehicle cannot be handed over to the accused.

3. Mr.C.Ganesh Pandian, the learned counsel for the revision petitioner contended that if the seized Auto is kept in open space in the police station the value of the same would get diminished over a period of time. He therefore, prayed for return of the vehicle.

4. The learned Government Advocate (Crl.side) did not raise any serious objection.

5. It is seen from the records, the auto was seized about nine months back and the investigation is completed and final report has also been filed before the concerned Court.

6. It is relevant to refer a decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*, wherein, the relevant portion is extracted hereunder.



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WEB COM **Vehicles**

“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.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”



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7. Keeping the vehicle idle in an open space, would diminish the value of the vehicle over a period of time. As such, considering the ratio laid down by the Hon'ble Supreme Court, this Court is inclined to allow the Revision Petition.

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order in Crl.M.P.No.1815/2023 in PRC.No.05/2023 dated 06.04.2023 passed by the learned Judicial Magistrate No.II, Ulundurpet is set aside. The learned Judicial Magistrate No.II, Ulundurpet, is directed to return the vehicle to the owner of the vehicle on 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 execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the trial Court.
- iii) the Court may prepare a panchanama in Judicial Form No.82 with regard to the vehicle bearing registration No. TN-06-AC-4912 and



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- iv) the petitioner shall take photograph of the vehicle bearing registration No. No.TN-06-AC-4912 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- v) the petitioner shall not alienate or encumber the vehicle in any manner;
- vi) the petitioner shall give an undertaking that she will not use the vehicle for any illegal activities in future,
- vii) the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

- 1.The Judicial Magistrate No.II, Ulundurpet.
- 2.Inspector of Police, Thirunavalur Police Station, Kallakurichi.
- 3.The Section Officer, Criminal Section, High Court, Madras.



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R. HEMALATHA, J.
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