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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.16245 of 2023

Sudhakar

...Petitioner

Vs

1.The State of Tamilnadu Represented by
The Inspector of Police,
North Police Station,
Tiruppur District.
Crime No.1188 of 2019

2.Sivasubramaniam

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order passed by the learned Principal Sessions Judge, Tiruppur in CRP No.36 of 2022 dated 06.03.2023 confirming the order passed in CMP No.12861 of 2022 by the file of the Judicial Magistrate-I, Tiruppur dated 1.12.2022 and hand over interim custody of the car bearing Registration No.TN 39 BP 0009 to the petitioner/accused.

For Petitioner : Mr.S.Karthikeyan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1



ORDER

This criminal original petition has been filed challenging the order passed by the Court below in CRP No.36 of 2022 confirming the order passed by the learned Judicial Magistrate-I, Tiruppur in CMP No.12861 of 2022 and granting interim custody of the vehicle to the 2nd respondent.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

3.The 2nd respondent gave a complaint to the 1st respondent and based on the same, an FIR came to be registered in Crime No.1188 of 2019 on 26.11.2019 against the petitioner for the offence under Sections 420, 468, 471 and 506(i) of IPC. During the course of investigation, the car which stood in the name of the partnership Firm was seized.

4.The 2nd respondent filed an application before the learned Judicial Magistrate-I, Tiruppur seeking for the return of vehicle. The learned Judicial Magistrate by an order dated 01.12.2022 permitted the vehicle to be returned back to the 2nd respondent by imposing certain conditions. In this application, the petitioner was not made as a party.



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5.The petitioner aggrieved by the above order filed a Criminal Revision before the Court below in CRP No.36 of 2022. The Court below by an order dated 01.12.2022 dismissed the revision. Aggrieved by the same, the present criminal original petition has been filed before this Court.

6.In the considered view of this Court, the order that has been passed by both the Courts below does not suffer from any apparent illegality or infirmity. The Court was merely granting an interim custody of the vehicle in favour of the complainant. Such an order was passed only based on the application that was filed by the complainant. After the FIR was registered and the car was seized, the petitioner did not take any steps to seek for return of the vehicle. Hence, the Court below was only going by the claim made by the 2nd respondent and the materials that were placed before the Court by the prosecution. Therefore, it was rightly held by both the Courts below that the Courts cannot go into the title to the property.

7.The learned counsel for the petitioner has brought to the notice of this Court that the original RC book pertaining to the vehicle is only with the petitioner and it stands in the name of the Firm and taking advantage of the fact that the petitioner who used to be under the influence alcohol of the 2nd respondent has foisted a case against



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the petitioner. Therefore, the learned counsel for the petitioner submitted that there was no chance for the petitioner to establish his right over the vehicle for which it is the petitioner who had paid all the instalments.

8.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the investigation has been completed and final report has been filed before the learned Judicial Magistrate-I, Tiruppur. The learned Additional Public Prosecutor submitted that even based on the investigation it was found that the petitioner had fabricated certain documents in order to claim ownership of the vehicles.

9.In the considered view of this Court as already held supra, the order passed by both the Courts below does not suffer from any illegality. If according to the petitioner, he is entitled for the custody of the car, he has to make a separate application before the learned Magistrate. The learned Magistrate can deal with this application based on the claim made by the petitioner and also the materials that have been collected by the respondent police in this regard during the course of investigation. Ultimately, the learned Magistrate can take a final decision. Except giving this liberty, no further orders can be passed in this criminal original petition.



5. This Criminal Original Petition is disposed of in the above terms.

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Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

ssr

To

1. The Principal Sessions Judge, Tiruppur.

2. The Judicial Magistrate-I, Tiruppur

3. The Inspector of Police,
North Police Station,
Tiruppur District.

4. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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