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Crl.O.P.No.22674 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22674 of 2023

Jayaraman (Died)

S/o.Thangavel

Rajesh

S/o.Jayaraman

... Petitioner / owner of the vehicle

... Petitioner / legal heir

Vs.

The State Rep.by

Inspector of Police,

Eravanchery Police Station,

Thiruvarur District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed in Crl.R.P.No.6/2021 dated 20.10.2021 and permit the petitioner to file the return of property before the Principal District and Sessions Court, Thiruvarur claiming interim custody of vehicle bearing registration No.TN 50 W 4880 (Engine No.2.2GIC07DZYK06424, Chasis No.MAT465008WA9012599), seized in connection with Crime No.761/2020 on the file of the respondent.

For Petitioner : Mr.T.Murugananthan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



ORDER

The TATA SUMO bearing registration No. TN 50 W 4880 is the subject matter of this Criminal Original Petition.

2. A case was registered by the respondent police in Crime No.761 of 2020 for offence under Sections 147, 148, 341 and 302 IPC against one Vijay in connection with murder of Panchayat Union President Mr.Ganesan.

3. According to the prosecution in the TATA SUMO vehicle the weapon used to commit murder was kept concealed. One Jayaraman in whose name the car stands happens to be the father of Vijay, the prime accused. Jayaraman filed petition for interim custody of the car pending trial. The trial Court dismissed the petition, against which, the said Jayaraman has filed a revision petition before the Principal District and Sessions Court in Crl.R.P.No.6 of 2021. The appellate Court has considered the facts of the case and permitted Jayaraman to get back the interim custody of the car on certain conditions. Unfortunately, a day before the order, Jayaraman died. Therefore, his another son by name Rajesh has taken out an application before the District Sessions Court stating about the death of Jayaraman in



whose favour the Court has ordered return of property and sought for handing over the property to him as the legal heir of Jayaraman. Along with the petition to return of property, he has also annexed the death certificate and affidavit of other legal heirs of Jayaraman recording their “No Objection” to give temporary custody of the vehicle to the petitioner Rajesh.

4. The trial Court has not entertained his petition and returned it stating that since the Court has already passed order of return of vehicle to Jayaraman in Crl.R.P.No.6 of 2021 dated 20.10.2021, the second petition is not maintainable before the appellate Court.

5. The learned counsel appearing for the petitioner submitted that the order of return of vehicle to Jayaraman was passed by the appellate Court in Crl.R.P.No.6 of 2021 after the demise of Jayaraman. Therefore, on the death of Jayaraman, a day before the order, the order passed by the appellate Court had become infructuous. In the said circumstances, son of Jayaraman by name Rajesh along with death certificate of Jayaraman and “No Objection” affidavit of the other legal heirs of Jayaraman had approached the appellate Court to substitute him in the place of deceased



Jayaraman and return the property. The learned Principal District Court, Tiruvarur without proper examination of the papers had returned it.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that if the petitioner is represented, same will be considered by the appellate Court.

7. This Court on perusing the record finds that the District Court, Thiruvarur had not properly gone through the papers and the Principal District Judge had returned the papers for the reason which is not appropriate and sustainable. Having concluded that the vehicle can be returned to the owner of the vehicle and the passed order accordingly, the death of the owner enables the legal heirs of the owner to get the relief already granted, if they are not otherwise by law prohibited.

8. The Court might have gone through the paper properly but unfortunately not done so. Therefore, this Criminal Original Petition is disposed of with a direction to the learned Principal District and Session Court, Thiruvarur to entertain the petition and on satisfaction regarding no



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objection, the vehicle shall be handed over to Rajesh, the petitioner herein with the conditions enumerated in the earlier order passed in Crl.R.P.No.6 of 2021 or any other further conditions if necessary.

16.10.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

1.The Principal District and Sessions Court, Thiruvarur

2.The Inspector of Police,
Eravanchery Police Station,
Thiruvarur District.

3.The Public Prosecutor,
High Court, Madras.

Dr.G.JAYACHANDRAN,J.

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