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Crl.OP.No.32682 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32682 of 2022

Janakiammal

.. Petitioner

VS

State represented by
the Inspector of Police,
Bangalapudur Police Station,
Erode District.
(Crime No.187 of 2022)

.. Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 04.11.2022 passed in Criminal Revision Petition No.35 of 2022 on the file of learned III Additional District and Sessions Judge, Erode at Gobichettipalayam and confirming the order dated 12.07.2022 passed in Crl.M.P.No.1758 of 2022 on the file of learned Judicial Magistrate No.1, Gobichettipalayam and release the Mahindra Bolero Van bearing Registration No.TN36 AZ 5401.



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For Petitioner : Mr.J.Ranjithkumar
For Respondent : Mr.S.Santhosh
Government Advocate (Crl side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 04.11.2022 passed in Criminal Revision Petition No.35 of 2022 on the file of learned III Additional District and Sessions Judge, Erode at Gobichettipalayam and confirming the order dated 12.07.2022 passed in Crl.M.P.No.1758 of 2022 on the file of learned Judicial Magistrate No.1, Gobichettipalayam and release the Mahindra Bolero Van bearing Registration No.TN36 AZ 5401.

2.The learned counsel for the petitioner submitted that petitioner is the owner of the vehicle namely Mahindra Bolero Van bearing Registration No.TN36 AZ 5401. He is not an accused in Crime No.187 of 2022 registered for the offence under Section 279 and 304 (A) I.P.C. @ 120b, 307 r/w 109, 302 r/w 34, 302 r/w 109 and 201 r/w 302 I.P.C. The first accused in this case Gowri Shankar is an employee under the petitioner. Accused have conspired with each other and committed the murder of deceased Loganathan. A1 in his capacity as



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employee had access to the Mahindra Bolero Van. He misused the vehicle.

Therefore the vehicle was seized in this case. Petitioner filed petition under Section 451 Cr.P.C. for return of the vehicle for her interim custody. That was dismissed in Crl.M.P.No.1758 of 2022 on 12.07.2022. Against the dismissal, he filed Criminal Revision Petition No.35 of 2022. The learned III Additional District and Sessions Judge, Erode at Gobichettipalayam, also dismissed the Criminal Revision Petition. Therefore, this petition.

3.The learned Government Advocate (Criminal side) opposed this petition stating that this is a case of murder. However, he submitted that when the petition was filed, the investigation in S.C.No.119 of 2022 was not completed. Now, the investigation is completed and final report is also filed and taken on file.

4.Considered the rival submissions and perused the records.

5.Petitioner is not an accused in this case. As submitted by the learned counsel for the petitioner, first accused was an employee under the petitioner and he misused the petitioner's vehicle in the commission of crime. Therefore,



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petitioner cannot be penalized. Even otherwise, if the vehicle is exposed to rain and sun light, it will certainly go waste in due course of time. Therefore, this Court is of the considered view that Mahindra Bolero Van bearing Registration No.TN36 AZ 5401 can be returned to the petitioner as interim custody subject to the following conditions:-

i) The petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Gobichettipalayam. On such execution, the petitioner's vehicle shall be immediately released to the custody of the petitioner.

ii) The petitioner shall produce the Original RC Book of the vehicle, before the Trial Court or Confiscation Authority. The RC book of the vehicle shall be retained by the Trial Court/Confiscation Authority till the disposal of the trial or until further orders from this Court.

iii) The petitioner shall file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court or the Confiscation Authority as and when required by the Trial Court or



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the Investigating Agency.

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iv) The respondents are at liberty to proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

(v) The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

6. Accordingly, order dated 04.11.2022 passed in Criminal Revision Petition No.35 of 2022 on the file of learned III Additional District and Sessions Judge, Erode at Gobichettipalayam is set aside.

7. With the above direction, this Criminal Original Petition is allowed.

04.01.2023

Index : Yes / No
Speaking / Non Speaking order
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To

- 1.The III Additional District and Sessions Judge,
Erode at Gobichettipalayam.
- 2.The learned Judicial Magistrate No.1,
Gobichettipalayam
- 3.The Inspector of Police,
Bangalapudur Police Station,
Erode District.
4. The Public Prosecutor
High Court, Madras.



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G.CHANDRASEKHARAN,J.

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