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Crl.R.C.No.1644 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1644 of 2022

&

Crl.M.P.No.19613 of 2022

V. Arunachalam

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Petitioner

Vs.

1. State by
Inspector of Police,
J-5, Sastri Nagar Police Station,
Chennai 600 090.
(Crime No.159/2022)

2. Syed Mahaboob Hussain Thahoor,
S/o. Thahoor,
Plot No.181, Maruthi Nagar 9th Street,
Madhampakkam,
Kancheepuram 600 0126

...

Respondents

PRAYER: Criminal Revision Case filed under Section 397 & 401 of the Criminal Procedure Code, 1973 to call for the records in respect of the order dated 14.12.2022 in Crl.M.P.No.18414 of 2022 passed by the IX Metropolitan Magistrate at Saidapet in Crime No.159 of 2022 and set aside the same as illegal and further direct the respondent police to deliver the



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vehicle bearing Regn. No.TN-09-BW-0001, TOYOTA INNOVA CAR to the petitioner.

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For Petitioner	: Mr. V. Balamurugan
For Respondent	: Mr.V.Meganathan Government Advocate (Crl.side)-R1 Mr.K. Chozhan for R2

ORDER

This Criminal Revision Case has been filed challenging the order of dismissal dated 14.12.2022 passed by the IX Metropolitan Magistrate at Saidapet in Crime No.159 of 2022 and further direct the respondent police to deliver the vehicle TN 09 BW 0001 TOYOTA INNOVA CAR to the petitioner.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of the disputed car viz., TN 09 BW 0001 TOYOTA INNOVA CAR and the RC book in respect of the abovesaid car stands in his name.



The petitioner and his son approached the accused persons, who are running used car sale business, for selling the above said car, for which, the accused persons have agreed to pay a sum of Rs.8,50,000/- as sale consideration. Believing their words, he handed over the abovesaid car to them, but without his knowledge, they sold the car to a third party namely Syed Mahaboob Husain Taheer and deliberately failed to pay the sale consideration as promised. He further submitted that the accused persons, without obtaining petitioner's signature in statutory transfer forms, illegally effected transfer of ownership in favour of the abovesaid Syed Mahaboob Husain Taheer before the RTO without obtaining No Objection Certificate from the Bank, where the car loan is pending with the petitioner under a loan agreement. After coming to know about the same, the petitioner approached the Regional Transport Officer and made his objections regarding transfer of ownership. On enquiry, the Regional Transport Officer, vide his proceedings No.56727-D1-2022, dated 13.12.2022 cancelled the transfer of ownership effected in favour of third party dated 14.07.2022, as illegal, since the vehicle was hypothecated with the Bank.



As on date, the RC Book stands in the name of the petitioner. Having regard to the same, the petitioner lodged a complaint with the 1st respondent police and a case was registered in Crime No.159 of 2022 for the offence under sections 406 and 420 IPC against the accused persons, pursuant to which, they were arrested and the said car was seized by the respondent police and the same was produced before the IX Metropolitan Magistrate Court, Saidapet.

3. It is his further submission that before the court below, the petitioner filed Crl.M.P.No.18075 of 2022 seeking interim custody of the vehicle to him as he is the original owner of the car. The said Syed Mahaboob Husain Taheer has also moved a petition in Crl.M.P.No.18414 of 2022 seeking return of vehicle stating that he is a bonafide purchaser of the said car and he has purchased the same from Sri Hari Cars and he is no way connected with the offence under crime No.159 of 2022, but the trial court having failed to consider the submission of the petitioner, ordered to grant interim custody in favour of Syed Mahaboob Husain Taheer, by allowing Crl.M.P.No.18414 of 2022, which is now challenged in the present criminal



revision case.

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4. The learned Govt. Advocate (crl.side) fairly conceded that as on date, the RC Book stands in the name of petitioner.

5. The learned counsel appearing for the 2nd respondent submitted that he had purchased the car for a valuable consideration from the accused persons and initially the name has been effected by the RTO, but subsequently, by the proceedings dated 13.12.2022, the RTO cancelled the name transfer effected in his favour on 14.07.2022. He further submitted that he is a bonafide purchaser and he is no way connected the offences under crime No.159/2022. Therefore, he is entitled to return of the car. Thus, he pleaded to dismiss the criminal revision case.

6. On perusal of FIR, the defacto complainant, in his complaint has stated that the accused persons promised to buy his car for a valuable consideration of Rs.8,50,000/- and subsequently, after taking his car, failed



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to pay money. Based upon the complaint, a case has been registered by the respondent police in Crime No.159/2022 on 2.8.2022 for the offences punishable under sections 406 and 420 IPC. In the circumstances, he came to know that the car has been sold by the accused to a third party - Syed Mahaboob Husain Taheer. On coming to know about the illegal transfer of ownership in favour of Syed Mahaboob Husain Taheer, the petitioner approached the Regional Transport Officer for cancelling the endorsement made by him, who, in turn, by proceedings dated 13.12.2022 cancelled the endorsement made by him on 14.07.2022. Therefore, as on date, the RC Book in respect of disputed car stands in the name of the petitioner. The vehicle was seized by the respondent police and produced before the Court below in B.No.1306 of 2022. Before the trial court, the petitioner filed an application in C.M.P.No.18075 of 2022 seeking interim custody of the vehicle, simultaneously, the third party-Syed Mahaboob Husain Taheer also filed an application in Crl.M.P.No.18414 of 2022 seeking return of vehicle. The trial court, without considering the fact that the petitioner's name is still continuing as the owner of the disputed car in the RC Book



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and subsequent transfer of ownership was also cancelled by the RTO, dismissed the Crl.M.P.No.18075 of 2022 filed by the petitioner and allowed the Crl.M.P.No.18414 of 2022 filed by the third party and granted interim custody of the disputed car to him. In the considered opinion of this Court, the finding of the court below is unsustainable. Hence, the order passed by the court below granting interim custody of the disputed car to Syed Mahaboob Husain Taheer in Crl.MP.No.18414 is hereby set aside and Crl.M.P.No.18075 of 2022 is allowed.

7. In fine,

- ◆ This Criminal Revision Petition is allowed on the above terms;
- ◆ The order passed by the court below in Crl.M.P.No.18414 of 2022 is hereby set aside and Crl.M.P.No.18075 of 2022 is allowed;
- ◆ The 2nd respondent/Syed Mahaboob Husain Taheer is hereby directed to produce the vehicle bearing Regn. No.TN-09-BW-0001, TOYOTA INNOVA CAR before the court below within a period of one week from the date of receipt of a copy of this order.
- ◆ On receiving the vehicle, the IX Metropolitan Magistrate, Saidapet,



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Chennai is hereby directed to grant interim custody of the above said car to the petitioner on the same conditions imposed by him in Crl.M.P.No.18414 of 2022.

- ◆ The connected Crl.M.P.No.19613 of 2022 is closed.

Index: Yes/No
Internet: Yes/No
msr

14.02.2023

To

1. The IX Metropolitan Magistrate at Saidapet
2. The Inspector of Police,
J-5, Sastri Nagar Police Station,
Chennai 600 090.
3. The Public Prosecutor, Madras High Court.
4. The Syed Mahaboob Hussain Thahoor,
Plot No.181, Maruthi Nagar, 9th Street,
Madhampakkam, Kancheepuram 600 126.



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V.SIVAGNANAM, J.,

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