



Crl.R.C.No.104 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.104 of 2024

Gugan

... Petitioner

Vs.

State By
The Inspector of Police,
Nungambakkam Police Station,
Chennai.
[Crime No.227 of 2023]

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records of the learned XIV Metropolitan Magistrate, Egmore, Chennai and set aside the order dated 15.12.2023 in C.M.P.No.57149 of 2023 and order return of vehicle, Car bearing Registration No.TN-22-DZ-0555 concerned in Crime No.227 of 2023 on the file of the respondent to the custody of the petitioner herein.

For Petitioner : Mr.M.R.Elavarasan

For Respondent : Mr.C.E.Pratap
Government Advocate [Crl. Side]



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ORDER

The petitioner filed a petition seeking return of his car TATA Tiago EV XZ+ Tech bearing registration No.TN 22 DZ 0555 before the learned XIV Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.57149 of 2023 and the same was dismissed on 15.12.2023. Against which, the present revision is filed.

2.The gist of the case is that on 30.10.2023 the respondent police on the complaint of one Karthick Kumar, registered a case against the petitioner and others stating that the defacto complainant had been to Park Elanza Hotel at Valluvarkottam High Road, Nungambakkam, Chennai for a night party along with his friends Priya, Jeni, Hecter and Thunoordhin. Two of his friends danced in the party, at that time, the petitioner and others wantonly dashed against them and also attempted to pick up conversation but the girls were not willing to talk to them and they refused. The defacto complainant's friends Hecter and Thunoordhin intervened and impressed on the petitioner, his friend Manicka Vignesh and others that they have no



reason to interfere with their dance of his friends and also picked up conversation and there was a wordy altercation and scuffle between them.

The Bouncers employed by the Hotel intervened and separated them. After the party was over at about 12.30 a.m., the defacto complainant along with his friends were standing near Murugaiya Hotel, Rama Street, T.Nagar and talking amongst them, at that time, the petitioner along with his friends came there in a car and again picked up quarrel, threatened them by showing the knife and also hit them using the knife. Hence, complaint was lodged.

3.The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the above case. He would submit that the petitioner went to the Party in a Hotel in Chennai, in the dancing hall where there was some wordy altercation between the petitioner and the defacto complainant which was blown out of proportion by the defacto complainant. He would further submit that at the instance of the Hotel Personnels, the defacto complainant as stooge lodged a complaint against the petitioner. He further submitted that no such incident took place at Rama Street, T.Nagar



and there was no threat by the petitioner. Since the force exerted by the Hotel Management was to such an extent that the Police had no other option to register a case and also as a deterrent in future nobody should raise any murmur in the dance hall, the vehicle of the petitioner was seized. But the vehicle was not used in the occurrence. The Lower Court has not considered these facts but on the opposition of the respondent police, dismissed the petition filed by the petitioner. He further submitted that the seized vehicle was purchased by the petitioner recently and used for his avocation. He would submit that the said vehicle is kept in open yard exposing to vagaries of weather, which not only affects the car by rust but also as a electric car, the vehicle without regular charge, would become redundant and it would incur heavy expenditure for re-conditioning the car and put to use. The vehicle is no more required for investigation and hence, prays for setting aside the impugned order of the lower Court.

4.The learned Government Advocate [Crl. Side] opposed the contention of the petitioner by filing a counter stating that on the complaint of the defacto complainant, a case was registered in Crime No.227 of 2023



for the offence under Sections 341, 294(b), 323, 324, 506(ii) IPC against the accused persons. During night hours, the petitioner had come along with his friends in a car carrying knife and iron rod and used the same to threaten and assault the victims in this case. Further, the accused in this case used the car to flee away and hide in Cuddalore which is the native place of one of the accused, with great difficulty, a Special team formed to trace the accused and vehicle and the vehicle was seized. He would submit that if the vehicle is handed over to the petitioner, he would indulge in similar offences. He fairly submitted that there are no previous cases against the petitioner.

5.Considering the submissions made and on perusal of the materials, it is seen that during the night hours in a Hotel, there was some dispute and wordy altercation which lead to scuffle and thereafter, the above incident took place. The petitioner has got no bad antecedents and since the vehicle is a electric car, it needs proper care and maintenance. Further, the investigation as regards the vehicle is completed.



6.It is seen that from the date of recovery, the vehicle is kept in open yard exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished. The Hon'ble Apex Court in the case of “***Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290***”, had given guidelines in the cases of return of property to the owner.

7.In view of the above, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., TATA TIAGO EV XZ+ TECH bearing Registration No.TN 22 DZ 0555 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):

(i)The petitioner shall execute a personal bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties each, for a like sum to the satisfaction of the learned XIV Metropolitan Magistrate, Egmore, Chennai. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(ii)The petitioner shall not alter or alienate the vehicle in question till the completion of trial.



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(iii)The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(iv)The petitioner shall submit a self attested photostat copy of R.C.Book before the learned XIV Metropolitan Magistrate, Egmore, Chennai.

(v) The petitioner shall produce the vehicle as and when directed to do so.

8.In view of the above, the impugned order, dated 15.12.2023 is set aside and the revision is, accordingly, allowed.

02.02.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

Note: Issue order copy on 07.02.2024



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M.NIRMAL KUMAR, J.

cse

To

- 1.The XIV Metropolitan Magistrate,
Egmore, Chennai
- 2.The Inspector of Police,
Nungambakkam Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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