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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.3841 of 2024

P.Sivasubramaniam

Petitioner

vs.

The Inspector of Police,
North Police Station,
Tiruppur District,
Crime No.1188 of 2019

Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in ECMP.No.11764/2023 dated 01.12.2023 pending on the file of the Judicial Magistrate No.I, Tirupur.

For Petitioner : Mr.N.Umapathi

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This criminal original petition has been filed challenging the order passed by the Court below in ECMP No.11764 of 2023, dated 01.12.2023, dismissing the application filed seeking for modification of the condition imposed by the

Court below while allowing the application filed by the petitioner for return of



vehicle.

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2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

3. The petitioner who claims to be the owner of the vehicle filed an application before the Court below in CMP No.12860 of 2022, seeking for the return of vehicle. This application was allowed by an order dated 01.12.2022 by imposing certain conditions. One such condition that was imposed by the Court below was that the petitioner must produce the original R.C. Book, Insurance Certificate after paying the road taxes, if any.

4. After the above order was passed, the accused person in this case approached this Court and filed CrI.O.P.No.16256 of 2023 and the said petition was disposed of by an order dated 20.07.2023 in the following terms:

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.The petitioner filed an application seeking for modification of one of the condition with respect to the production of the original RC Book, since according to the petitioner, it was taken away by the accused person and an attempt was also made to affix his photograph in the RC Book.

6.The above application was dealt with by the Court below and by an order dated 01.12.2023, it was dismissed on the ground that already order has been passed by directing the vehicle to be returned back to the petitioner by imposing certain conditions and if the conditions are modified, the same will amount to reviewing the earlier order passed. The Court below also took note of the order passed by this Court in criminal original petition filed by the accused persons. Aggrieved by the same, the present criminal original petition has been filed before this Court.

7.When the matter came up for hearing on 27.02.2024, this Court directed the learned Additional Public Prosecutor to take instructions and verify in



whose name the RC Book stands. A status report has been filed by the respondent today. The relevant paragraph is extracted hereunder:

25.It is submitted that it is pertinent to note that the Original RC book of the said vehicle i.e., innova car bearing Regn.No. No/TN 39 BP 0009 was taken away by the accused/Sudhakar and he did not submit the said RC book before the concerned court till date and also the above said seized vehicle BMW car is under custody of the respondent police which is produced before the said Court and the same was taken on file vide PR Nos.177/2022 and 185/2022, dated 23.11.2022 and 28.11.2022 respectively. It came to the light that the said RC book is under the Smart Garments name.

8.The learned Additional Public Prosecutor also produced the copy of the RC Book as was given by the concerned RTO pertaining to the vehicle and it is seen that the owner name is mentioned as Smart Garmentz and the photograph of the petitioner has been affixed.

9.The learned counsel for the petitioner submitted that this RC Book has now been taken away by the accused person and the attempt made by the accused person to get back the vehicle also came to an end after his application was dismissed by the Court below/



10. There is a dispute between the two partners and as a result, it has ended up in a criminal case. The BMW car which stands in the name of the Firm is now lying in the police station from the month of August 2023. It is exposed to rain and shine and no useful purpose will be served in continuing to keep the car in the police station.

11. The application filed by the petitioner seeking for return of vehicle has been allowed by the Court below. Whereas, the application filed by the accused seeking for return of vehicle was dismissed by the Court below. The original RC Book is now in the custody of the accused person and therefore, it is not possible for the petitioner to produce the same before the Court below. Therefore, it will be left open to the petitioner to produce some other document of sterling quality before the Court below which can be accepted by the Court below. In view of the same, the 4th condition imposed by the Court below is modified as follows:

The petitioner is directed to file the claim statement that was filed by the Bank and also the original Closure Letter dated 31.08.2023 issued by the HDFC Bank before the Court below.

12. The other conditions imposed by the Court below shall stand as it is.



On compliance of the above modified condition, the possession of the car can be handed over to the petitioner.



N. ANAND VENKATESH, J.

ssr

13.This criminal original petition is disposed of with the above directions.

28.02.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ssr

To

1.The Judicial Magistrate No.I, Tirupur.

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

3.The Public Prosecutor,
High Court, Madras.

Crl.O.P No.3841 of 2024