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Crl.R.C.No.360 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

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THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

Crl.R.C.No.360 of 2024

Muhammed Yahiya

... Petitioner/Owner of Property

vs.

The State represented by

The Inspector of Police,

Karimangalam Police Station,

Dharmapuri District,

Tamil Nadu

...Respondent/Complainant

PRAYER: Criminal Revision Petition is filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Karimangalam, Dharmapuri District made in Crl.M.P.No.2534 of 2023 in Crime No.350 of 2023 dated 18.12.2023 and consequently to return the above vehicle bearing Registration No.KL-58.V.3132 - Engine No.IGDA.082647 – Chassis No.MBJJA8EM4005069190317-Toyota Kirloskar Car (Innova Crysta) to the above petitioner.

For Petitioner : Mr.Praveen K Joy

For Respondent : Mr.C.E.Pratap

Additional Public Prosecutor



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ORDER

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Being aggrieved by the order of dismissal passed in Crl.M.P.No.2534 of 2023 in Crime No.350 of 2023 dated 18.12.2023 passed by the learned District Munsif cum Judicial Magistrate, Karimangalam, Dharmapuri, the petitioner herein has preferred this Criminal Revision Case.

2. A petition was filed under Section 451 of Cr.P.C in Crime No.350 of 2023 of Karimangalam Police Station under Section 394 altered to 120(B) and 397 of IPC by the revision petitioner stating that he is the owner of INNOVA CRYSTA 2.8 BS IV bearing Registration No.KL58V3132 and the said vehicle was seized in the above said crime number and produced before the above said Court. Accused are his friends and for their personal purpose the vehicle was taken. The said vehicle was seized by the police on the ground that the said vehicle was used for the commission of offence under Section 397 IPC and produced before the District Munsif cum Judicial Magistrate Court, Karimangalam, Dharmapuri District and it was in C.P.No.176 of 2023 (Item No.1).



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3. The learned District Munsif cum Judicial Magistrate upon consideration concluded that the said INNOVA CRYSTA car has been used for commission of the offence under Section 397 IPC in Crime No.350 of 2023 of Karimangalam Police Station and if the vehicle is handed over to the petitioner, he might alter its nature and fail to produce the vehicle at the time of trial and chose to dismiss the application.

4. The learned counsel appearing for the revision petitioner vehemently contended that the petitioner who is the owner of the vehicle had given to the accused for the personal use as they are his friends and the petitioner did not involve in any offence. He would further contend that if the vehicle is kept without use, its value will be diminished.

5. Per contra, Mr.C.E.Pratap, learned Additional Public Prosecutor strenuously argued that the said vehicle has been used for commission of offence under Section 397 IPC and hence the learned District cum Judicial Magistrate, Karimangalam has rightly dismissed the petitioner for return of vehicle.

6. On careful perusal of the records, it appears that the said vehicle INNOVA CRYSTA bearing registration No.KL58V3132 is said to have



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been used for the commission of offence in Crime No.350 of 2023 of Karimangalam Police Station. As per the Registration Certificate enclosed, it stands in the name of the revision petitioner.

7. The Court may pass suitable orders with regard to return of property.

8. For clear understanding Section 451 of Cr.P.C is extracted hereunder:-

“451. Order for custody and disposal of property pending trial in certain cases. - When any property is produced before any criminal court during any inquiry or trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.- For the purposes of this section, 'property' includes -

(a) property of any kind or document which is produced before the court or which is in its custody.

(b) any property regarding which an offence



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appears to have been committed or which appears to have been used for the commission of any offence.”

9. In *Sunderbhai Ambalal Desai Vs. State of Gujarat* reported in (2002) 10 SCC 283, the Hon'ble Supreme court held that “it is of no use to keep such seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate order immediately by taking appropriate bond and guarantee as well as security for return of the vehicles if required at any point of time. This can be done pending hearing of the applications for return of such vehicles.”

10. The petitioner is not an accused in the said case. If the vehicle is kept in open place, unused for a long period its value will definitely get diminished. This Court is of the considered view that the interests of justice will be served, if the vehicle is ordered to be released to the petitioner on certain conditions. The respondent police is directed to hand over the said car bearing registration No. KL58V3132 to the petitioner after compliance of the below mentioned condition Nos.(i) to (ii) :

- i. that the petitioner shall execute, a personal bond for a sum of Rs.2,00,000/- (Rupees two lakhs only) and with two



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sureties each for a sum of Rs.10,000/- to the satisfaction of the District Munsif cum Judicial Magistrate, Karimangalam. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

- ii. that the petitioner shall file an undertaking affidavit before the Court concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent.
- iii. that the petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;
- iv. that 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;
- v. that the petitioner shall surrender the original R.C. book before the District Munsif cum Judicial Magistrate, Karimangalam; and
- vi. that the petitioner shall not change the colour of the vehicle:



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11. Petition relating to return of R.C. Book for any purpose in the future, may be filed before the District Munsif cum Judicial Magistrate, Karimangalam, who may consider the same on merits.

12. This Criminal Revision case is allowed in the above terms.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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R.KALAIMATHI, J.

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To

1. The District Munsif Cum Judicial Magistrate Court,
Karimangalam, Dharmapuri District.
- 2.The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District,
Tamil Nadu
- 3.The Public Prosecutor,
Madras High Court, Chennai.

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