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Crl.RC.No.736 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.736 of 2024

Bineesh Benny

...Petitioner

Vs.

1. The Superintendent of Police,
Chengalpattu District.
2. The State,
Rep. By its Inspector of Police,
D2 Chengalpattu Taluk Police Station,
Chengalpattu.

...Respondents

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the dismissal order dated 02.04.2024 passed by the learned Judicial Magistrate II in Crl.MP.No.730 of 2024 in Cr.No.105 of 2024 on the file of the 2nd respondent and to return the Toyota Corolla Car-2013 Model bearing registration number TN 01 AT 8586, Engine No.2ZR1200395, Chassis No.MBJ53REE204604764 along with its Original RC Book, Insurance and Keys seized by the 2nd respondent in Cr.No.105 of 2024 to the petitioner.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mrs.G.V.Kasthuri, Addl. Public Prosecutor



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ORDER

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This Criminal Revision case has been filed to set aside the order of dismissal dated 02.04.2024 passed in Crl.MP.No.730 of 2024 by the Judicial Magistrate II and to consequently return the Toyota Corolla Car-2013 Model bearing Regn.No.TN-01-AT-8586 along with its Original RC Book, Insurance and Keys seized by the 2nd respondent in Cr.No.105 of 2024 to the petitioner.

2. The case of the petitioner is that he is working in Saradha Motors and on 17.11.2023, he had gone to Kottayam, Kerala for a wedding. While so, on 20.11.2023 at about 10.00 a.m., he received a call from one Yuvaraj with regard to purchase of the petitioner's vehicle namely, Toyota Corolla Car-2013 Model bearing Regn.No.TN-01-AT-8586 and he enquired the petitioner, whether he received the entire sale consideration. Only upon receipt of the said phone call, the petitioner came to know that his car was stolen and was subsequently sold to the said Yuvaraj. Immediately, the petitioner had registered a complaint before the law enforcing agency through his wife for the offences under Sections 379 & 420 of IPC in



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Cr.No.105 of 2024 against one Abraham @ Sumith. During the course of investigation, the above said car of the petitioner was seized by the 2nd respondent. The petitioner filed a petition under Section 451 of Cr.P.C in Crl.M.P.No.730 of 2024 before the Judicial Magistrate No.II, Chengalpattu, for return of his car, however, the said petition came to be dismissed on 02.04.2024. Challenging the same, the petitioner has preferred this revision.

3. Learned counsel for the revision petitioner submitted that, the petitioner is not an accused and he is the lawful owner of the above said Toyota Corolla Car-2013 Model bearing Regn.No.TN-01-AT-8586, which was stolen and subsequently sold to the said Yuvaraj, by the accused, the said Abraham @ Sumith. He further submitted that, the RC book of the said car stands in the name of the petitioner. It is the further case of the petitioner that the original RC, insurance and other documents were also stolen by the accused. Thereby, the petitioner filed petition under Section 451 of Cr.P.C. for return of the vehicle and also the other documents. While so, merely because the said Yuvaraj made a rival claim, dismissing the petitioner's interim custody petition is wholly unsustainable.



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4. Learned Additional Public Prosecutor appearing for the respondents vehemently opposed for release of vehicle by allowing this petition and she submitted that, unless the investigation is completed, the prayer sought for by the petitioner cannot be acceded to.

5. Even though the Trial Court had negatived the right of the petitioner for return of vehicle, however, considering the fact that the documents pertaining to the car stands in the name of the petitioner and that there is no material to show, *prima facie*, that the petitioner has sold the car to the said Yuvaraj, the petition filed by the petitioner cannot be dismissed at the threshold. Further, it is even the admission of the said Yuvaraj that he had purchased the car from the accused and not from the petitioner and he is in possession of the RC book and other documents. Further it is also to be noted that keeping the vehicle in the open atmosphere would deteriorate and diminish its value and also keeping the vehicle idle will no longer serve any purpose, and considering all the above, this Court is inclined to release of the above said car on condition that the petitioner shall deposit a sum of Rs.1,00,000/- to the credit of Crl.MP.No.730 of 2024 on the file of the



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Judicial Magistrate II in Cr.No.105 of 2024 on the file of the 2nd respondent

subject to the following conditions :-

(i) The order of the learned Judicial Magistrate II, Chengalpattu in Crl.MP.No.730 of 2024 dated 02.04.2024 is set aside and the vehicle, viz., Toyota Corolla Car-2013 Model bearing registration number TN 01 AT 8586, Engine No.2ZR1200395, Chassis No.MBJ53REE204604764 along with its Original RC Book, Insurance and Keys shall be given interim custody to the petitioner after retaining a Xerox copy of the documents, so as to enable the petitioner to use the vehicle;

(ii) The petitioner shall not alienate the vehicle in any manner till adjudication is over;

(iii) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondents and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(iv) The petitioner shall not indulge in any prejudicial activity by using the present vehicle. If the petitioner involves in any offence by using the present vehicle, this order of returning the present vehicle (Toyota Corolla Car-2013 Model bearing registration number TN 01 AT 8586, Engine



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No.2ZR1200395, Chassis No.MBJ53REE204604764), shall stand automatically vacated, and the vehicle will be again seized by the respondent/police and produced before the Court concerned.

6. Accordingly, the Criminal Revision Case is allowed in the above terms.

25.04.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

1. The Superintendent of Police,
Chengalpattu District.
2. The Inspector of Police,
D2 Chengalpattu Taluk Police Station,
Chengalpattu.
3. The Judicial Magistrate II,
Chengalpattu



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