



Crl.R.C.No.1568 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

Crl.R.C.No.1568 of 2023

K.Malar

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Puttur Police Station,
Cuddalore District.
Crime No.87 of 2023

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records relating to order dated 20.06.2023 passed in Crl.M.P.No.2624 of 2023 in Crime No.87 on the of thr Court of the District Munsif Court cum Judicial Magistrate at Kattumannarkoil, Cuddalore District and set aside the same and further direct the respondent police to release the vehicle TATA Motors Ltd., TATA ACE GOLD DIESEL BS-VI, bearing registration No.TN 91 J 5811.

For Petitioner : Mr.B.Balamurugan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioner is the owner of the TATA Ace bearing registration No.TN 91 J 5811 had filed return of property petition before the trial Court in Crl.M.P.No.2624 of 2023, which was dismissed on 20.06.2023. Against which, the present revision is filed.

2. The contention of the petitioner is that the defacto complainant on 12.06.2023 lodged the complaint stating that on 10.06.2023 at about 2.30 a.m., he and his spouse were shouting. On hearing the sound of the cows he had gone out to find out the reason, at that time he noticed that one Jagan of Maniyam Adur village Sailesh and yet another person came in TATA Ace vehicle and had taken a cow of the defacto complainant and the other person had escaped from the scene of occurrence in a motor bike. The petitioner's cow valued around Rs.40,000/-. Hence lodged the complaint.

3. The contention of the petitioner is that the petitioner is the owner of the TATA Ace she used to hire the vehicle and make her earnings. The vehicle was purchased with the support of TATA finance and she is being regularly paying the monthly EMI, the vehicle has been entrusted to the



driver in which the offence is said to be committed. The petitioner is not an accused in this case and the vehicle after seizure is kept in open place. The petitioner apprehends that TATA finance may repossess the vehicle as per hypothication. The trial Court not considered the petitioner's contention and dismissed the petition.

4. The learned Additional Public Prosecutor submitted that the petitioner had entrusted the vehicle to one Jagan, Sailesh, and Mani, Maniyam Adur village, who are habitual offender, by using the petitioner's vehicle used to steal cattles around the village at odd hours. They gone to the defacto complainant's house on 10.06.2023 used the vehicle for committing theft of the petitioner's cow. The defacto complainant on hearing the noise came out and identified the accused and lodged the complaint along with the details of the vehicle. The petitioner had given the vehicle and now for the purpose of return of vehicle claims that she is not aware about the antecedents of Jagan and Sailesh. Hence opposed the return of property.

5. Considering the submissions and perused the materials, the



petitioner is not an accused in this case. The vehicle has been purchased with the support of TATA finance. It is seen that from the date of registration of FIR, the vehicle is kept in open space 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.

6. In view of the aforesaid reasons, this court is constrained to set aside the order, dated 20.06.2023 passed by the learned District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore and the Criminal Revision Case is allowed. In view of the same, the lower Court is directed to return the vehicle TATA Ace bearing registration No.TN 91 J 5811 to the petitioner, on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned District



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Munsif cum Judicial Magistrate, Kattumannarkoil,
Cuddalore;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records. The learned Principal Special Judge shall peruse the RC book and other records, retain xerox copy of the same and return the same to the petitioner with a view to use the vehicle;

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

(iv) 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 respondent and by the court below.

26.03.2024

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



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M.NIRMAL KUMAR,J.

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To

1.The District Munsif Court cum Judicial Magistrate, Kattumannarkoil,
Cuddalore District

2.The Inspector of Police,
Puttur Police Station,
Cuddalore District.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

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