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Crl.O.P.No.24577 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24577 of 2024
& Crl.M.P.No.13857 of 2024

Mr.Manikandan. ... Petitioner/1st Accused
/versus/

1. The State Represented by,
Inspector of Police,
Kallukurichi Police Station,
Kallukurichi District. ... 1st Respondent/Complainant

2. Mr.R.Muniyan. ... 2nd Respondent/Defacto Complainant

3. Mr.K.Ramesh. ... 3rd Respondent/2nd Accused

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and to quash the impugned summon issued by the 1st respondent on 25.09.2024 in Crime No.656 of 2024 on the file of Kallakurichi Police Station, Kallakurichi District.

For Petitioner : Mr.V.Balasubramani.

For R1 : Mr.K.M.D.Muhilan,
Government Advocate (Crl.Side)



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ORDER

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The petitioner herein is a Collection Manager in a Non Banking Finance Company. On the complaint given by Muniyan, the 1st respondent police has caused summons to the petitioner to produce the Tractor bearing Reg.No.TN-15-E-6365 which according to the complainant has purchased from the loan advanced by the petitioner Bank and loan was not cleared by him. Whereas, the petitioner claims that due to default, the vehicle was repossessed by the Finance Company. In such circumstances, under the guise of investigation, it is alleged that the 1st respondent police is trying to get possession of the vehicle without any evidence of payment of loan amount.

2. The Learned Government Advocate (Crl.Side) for the respondent submits that it is a case where possession of vehicle illegally been alleged in the complaint given by Muniyan and therefore, it is necessary to produce the vehicle before the Court. Hence, the impugned summons dated 29.07.2024 was issued to the petitioner.



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3. The Learned Counsel appearing for the petitioner

emphasis that the said Muniyan who borrowed the money for purchase of Tractor has not paid the instalments and the vehicle was repossessed by the petitioner following due process of law. There is no criminality involved in this case for the police to investigate more so, to take the possession of the vehicle from the petitioner

4. On perusing the record, this Court finds that the loan transaction between the petitioner Finance Company and the 2nd respondent/Muniyan has led to registration of F.I.R in Crime No.656 of 2024, dated 12.09.2024, for the offence under Section 318 (4) of BNS. The vehicle for which loan advanced admittedly repossessed by the petitioner herein and it is in their custody. For investigation, the vehicle need not be produced to the Investigation Officer at this stage. If at all, the respondent police decides to file final report after investigation and the vehicle has to be produced before the Court as a material object and that can be done at the time of filing the final report. For that purpose, it is sufficient that the police shall get an undertaking from the petitioner herein that he will produce the vehicle before the Court as and when required. That apart, as far as summons issued to the petitioner is



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concerned, the petitioner shall participate in the enquiry and produce necessary documents to show that the complainant is the defaulter and the possession of vehicle was taken in accordance with law.

5. With this observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

03.10.2024

Index : Yes/No
Neutral Citation : Yes/No
bsm

To:

1. The Inspector of Police, Kallukurichi Police Station, Kallukurichi District.
2. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

bsm

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