



Crl.A(MD)No.1071 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated

18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A.(MD)No.1071 of 2024

R.Mathan

... Appellant

vs.

1.State of Tamilnadu rep by
The Deputy Superintendent of Police,
Ettayapuram Police Station,
Thoothukudi District.
(Crime No.36 of 2022)

3.Mrs. Latha

... Respondents

PRAYER: Criminal Appeal filed under Section 14 A (2) of SC/ST Prevention of Atrocities Act 1989, to call for the records pertaining to the order in Cr.M.P.No.1319 of 2022 in S.C.No.16 of 2022 dated 29.08.2024 on the file of the Special Court for Trial of cases under SC/ST (POA) Act, Thoothukudi in Crime No.36 of 2022 on the file of the respondent police and set aside the same as illegal and pass appropriate orders for release the vehicle bearing registration No.HR 26 BQ 9792 "Volkswagen Jetta Car".

For Appellant :Mr.I.Pinayagash

For Respondent :Mr.M.Sakthi Kumar

Government Advocate (Crl.Side)

for R1

: Mr.S.C.Herold Singh for R2

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in
<https://www.mhc.tn.gov.in/judis>



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Crl.M.P.No.1319 of 2022 in S.C.No.16 of 2022 dated 29.08.2024, on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi in Crime No. 36 of 2022 on the file of the respondent police and release the vehicle bearing registration No.HR 26 BQ 9792 “Volkswagen Jetta Car”.

2.1. According to the prosecution, the appellant is said to have committed the offences under Sections 294(b), 506(ii) of IPC and Sections 4 of TNPHW Act and Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Act, 1989.

2.2. According to the prosecution, the second respondent made a complaint against the appellant herein with an allegation that he scolded the second respondent by abusing her caste name and also assaulted her. Hence, the FIR has been registered in Crime No.36 of 2022 for the offence under Sections 294(b), 506(ii) of IPC and Sections 4 of TNPHW Act and Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Act, 1989. As per the FIR allegation, the appellant and the other persons were entered in to the property of the defacto complainant in the car and said to have committed the above stated offences. In view of that the vehicle also seized by the police officer. Therefore, the appellant filed a petition under Section 451 of Cr.P.C., in Cr.M.P.No.1319 of 2022 seeking interim custody of the vehicle bearing registration No.HR 26 BQ 9792 “Volkswagen Jetta Car” and the same was dismissed by the learned Sessions Judge (FAC), Special Court for Trial of Cases



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under SC/ST (PoA), Act, Thoothukudi, on 29.08.2024. Challenging the same, the
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appellant has preferred this Criminal appeal.

3. The learned counsel for the appellant submitted that there was no dispute over the ownership of the vehicle. As per the prosecution case, they came in the said said vehicle and committed the offence. Further, he produced the relevant document obtained from the jurisdictional Regional Transport Office to show their legal possession over the disputed vehicle. Hence, the learned trial Judge has not perused the same and dismissed the application. Therefore, he seeks to release the vehicle by allowing this appeal.

4.The learned counsel for the *defacto* complainant submitted that the appellant is not entitled to get the disputed vehicle. Because, the appellant and the other persons were came into the *defacto* complainant's property and intentionally committed the offence as stated above. Therefore, he seeks to dismiss this case.

5.The learned Government Advocate (Criminal Side), submitted that the appellant has not produced any documents to show the ownership over the said car. Therefore, he seeks dismissal of this appeal.

6.This Court considered the submissions made by the learned counsel appearing for the appellant and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.



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7. In view of the fact that prosecution case itself in that the appellant and the other accused persons entered into the property of the defacto complainant in the above said disputed vehicle and the appellant has also produced transfer application from the Regional Transport Office to show the ownership over the car, this Court is inclined to allow the appeal by following the principle of law laid down by the Honourable Supreme Court, in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat* reported in 2002 (10) SCC 283:

“12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

- (1) preparing detailed proper panchnama of such articles;*
- (2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and*
- (3) after taking proper security”*

13. For articles such as seized liquor also, prompt action should be taken in disposing it of after preparing necessary panchnama. If sample is required to be taken, sample may kept properly after sending it to the chemical analyser, if required.



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But in no case, large quantity of liquor should be stored at the police station. No purpose is served by such storing."

8. Accordingly, this Criminal Appeal is allowed and the order dated 29.08.2024 in Cr.M.P.No.1319 of 2022 in S.C.No.16 of 2022 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, is hereby set aside and the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (PoA) Act, Thoothukudi, is directed to release the vehicle of the appellant forthwith on the following conditions:-

(i) the appellant shall execute a bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with two sureties for a like sum to the satisfaction of the learned ()Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi;*

(ii) The appellant shall file an affidavit with specific undertaking that he shall not involve in any illegal activity or any other offence and vehicle also will not be used in the illegal activity or any other offence.

(iii) The photograph of the vehicles is to be taken properly and the appellant shall produce his vehicle as and when required by the Courts below.



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(iv) *The appellant shall not alienate the vehicle till the disposal*

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of criminal case.

Sd/-

18/12/2024

**(*)Corrected as per the order of this Court dated 03.02.2025 made in
Crl.A(MD)No.1071 of 2024.**

Sd/-

Assistant Registrar (CS I)

// True Copy //

/01/2025

Sub Assistant Registrar
(CS - I/II/III/IV)

To be Substituted the order already despatched on 21/01/2025

shn

To

- 1.The learned Sessions Judge,
Special Court for Trial of Cases under SC/ST (PoA) Act,
Thoothukudi,
- 2.The Deputy Superintendent of Police,
Ettayapuram Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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The Section Officer,
Criminal Records,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-75215[F] dated 19/12/2024)

+1 CC to M/s.I.PINAYGASH, Advocate (SR-75270[F] dated 19/12/2024)

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BV (07/01/2025) 7P/ 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.

BV (04/02/2025) 7P/ 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.