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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 6345 of 2026

The Indian Bank
Thottanai Branch,
Represented by its Senior Manager,
Valarmathi, No.74, Perundurai Road,
Erode District - 638 011.

Petitioner(s)

Vs

1.State Rep. by
The Inspector of Police,
District Crime Branch,
Erode District. (Crime No.9 of 2020)

2.K.Rathika

3.Karthik

Respondent(s)

PRAYER: Criminal original petition filed under Section 528 of BNSS to modify the condition No.4 in Para No.11 imposed on the petitioner in CMP.No.6946 of 2020 by order dated 18.01.2021 by the learned Judicial Magistrate No.II, Erode.

For Petitioner(s): Mr.A.K.Sachindhar

For Respondent(s): Mr. Leonard Arul Joseph Selvam
Additional Public Prosecutor
for R1

**ORDER**

This criminal original petition is filed to modify condition No.4 in paragraph No. 11 of the order dated 18.01.2021 passed in C.M.P. No. 6946 of 2020 by the learned Judicial Magistrate No.II, Erode.

2(i). The case of the petitioner is that the 2nd respondent herein had approached the petitioner Bank for a loan of Rs.15,00,000/- for purchasing a Hyundai Creta Car . On 21.09.2020, the 2nd respondent had hypothecated the car belonging to her bearing Registration No. TN 56 W 9999 and submitted the registration certificate of the hypothecated car to the petitioner Bank, pursuant to which the petitioner Bank disbursed a sum of Rs.15,27,380/- for purchase of Hyundai Creta Car. Subsequently, the 2nd respondent had bought Hyundai Creta Car bearing Registration No. TN 56 P 7621 and was enjoying the possession of the same.

2(ii) While so, the petitioner Bank came to know from the Manager of Canara Bank, Villarasampatti Branch, Erode that before clearing the dues, the 2nd and 3rd respondents had fraudulently hypothecated the vehicle bearing Registration No. TN 56 P 7621, which was bought by the 2nd respondent by availing loan from the petitioner Bank, to buy another car bearing Registration No. TN 56 R 8055 in the name of the 3rd respondent from the loan obtained from Canara Bank, Villarasampatti Branch to the tune of Rs.18,95,784/-. A complaint in this regard was filed by the Manager of Canara Bank before the respondent Police and the same was registered in Crime No. 9 of 2020. During



the enquiry, the petitioner's bank officials found that the documents submitted by the 2nd respondent were fake and that the purchase invoice pertaining to the vehicle bearing Registration No. TN 56 P 7621 was never produced by the 2nd respondent before the petitioner Bank.

2(iii) The petitioner Bank filed C.M.P. NO. 6946 of 2020 before the learned Judicial Magistrate No.II, Erode, to hand over the possession of the vehicle bearing Registration No. TN 56 P 7621 and the same was allowed on 18.01.2021 subject to certain conditions. One of the conditions imposed while granting interim custody of the said vehicle was that the vehicle shall not be sold or alienated and that it shall be produced in the manner as it was taken before. Seeking modification of the said condition, the present criminal original petition is filed.

3. Learned counsel for the petitioner submitted that the petitioner being a Banker, has to realise the money by selling the car and if the vehicle is not allowed for sale, then the petitioner's Bank will be put to great hardship.

4. Heard the learned Additional Public Prosecutor for the 1st respondent and perused the materials on record.

5. It is seen that the petitioner had given a loan to the 2nd respondent for purchase of Hyundai Creta Car and the 2nd respondent, on hypothecation of a car belonging to her, took a loan of Rs.15lakhs. After purchase of Hyundai Creta car bearing Registration No. TN 56 P 7621 and using the documents of the said car, had taken further loan from Canara Bank, suppressing the hypothecation



with the petitioner Bank. The Canara Bank had lodged a complaint in this regard and a case in Crime No. 9 of 2020 was registered. Subsequently, both the cars, bearing Registration Nos. TN 56 P 7621 and TN 56 R 8055 were seized.

6. As far as the car bearing Registration No. TN 56 R 8055 is concerned, Canara Bank had taken return of the vehicle and it is with them.

7. With regard to the petitioner Bank, the Trial Court had ordered return of vehicle bearing Registration No. TN 56 P 7621 subject to certain conditions and the petitioner is aggrieved by condition No. 4 at paragraph No.11 of the order dated 18.01.2021 in C.M.P. NO. 6946 of 2020 restraining the petitioner Bank from alienating the vehicle and to produce in the same manner as it was taken before when required. Further, the Trial Court had also negatived the prayer sought by the petitioner to issue a direction to Regional Transport Officer, Perundurai to do registration and transfer ownership.

8. Admittedly, the petitioner is a hypothecator and as a hypothecator, has got right to re-possess the vehicle at any time.

9. Learned Additional Public Prosecutor fairly submitted that if the vehicle details are properly documented, he has got no objection and that documentation is necessary to proceed against the accused in Crime No. 9 of 2020

10. In view of the above, the condition No.4 of paragraph No.11 of the order dated 18.01.2021 in C.M.P. No. 6946 of 2020 imposed by the Trial Court,



restraining the petitioner from alienating the vehicle is not proper and the same is set aside. The petitioner can alienate the vehicle and the Regional Transport Officer, Perundurai, can consider the transfer of ownership of the car and register the same. The only requirement is that the vehicle details, physical features have to be properly documented by way of audio and video recording recorded in a CD and along with CD and pendrive, a certificate under Section 65-B to be produced. The entire process shall be conducted in the presence of the Investigating Officer and the Court Staff.

11. With the above directions, the criminal original petition is disposed of.

12-03-2026

Neutral Citation: Yes/No
nv

To

1. The Judicial Magistrate No.II,
Erode.
2. The Inspector of Police,
District Crime Branch,
Erode District.
(Crime No.9 of 2020)
3. The Public Prosecutor
High Court, Madras.



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M.NIRMAL KUMAR, J.

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