
(2006) 11 MAD CK 0178

Madras High Court

Case No: Criminal R.C. No. 1275 of 2006 and Criminal M.P. No. 1 of 2006

Anjana

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Nov. 28, 2006

Acts Referred:

- Immoral Traffic (Prevention) Act, 1956 - Section 3(1), 4(1), 5(1), 6(1)

Citation: (2007) 1 LW(Cri) 429

Hon'ble Judges: R. Regupathi, J

Bench: Single Bench

Advocate: C.C. Chellappan, for the Appellant; P. Kumaresan, Assistant Public Prosecutor, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

R. Regupathi, J.

The petitioner is the fourth accused among four accused in the case pending in Crime No. 198 of 2005 for the offence punishable under Sections 3(1), 4(1), 5(1) and 6(1) of the Immoral Traffic (Prevention) Act and she is the owner of Ford Icon Car bearing registration No. TN 09 R 1971 bearing Engine No. YC 08688 and Chasis No. MAJAXXMRTAYC 08688. This petition is filed by the petitioner, seeking to setting aside the order passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in M.P. No. 7464 of 2005 dated 04.01.2006, in and by which, the petition for return of property, which was involved in the above said offences, came to be refused.

2. The petitioner, who is arrayed as an accused, is the owner of the vehicle. The prosecution case is that by using the vehicle, the alleged offence is said to have been committed. A petition for return of the vehicle has been filed before the learned Magistrate. The impugned order has been passed by observing that the petitioner has been arrayed as an accused in this case and the investigation is still

pending.

3. The learned Counsel for the petitioner submits that she is owner of the vehicle and she has relevant documents to substantiate the same and that she will produce the vehicle as and when required. He would further submit that the case is under investigation and it may take considerable time for completion of the enquiry and trial and in the meantime, if the vehicle is kept in the custody of respondent police endlessly, the value of the property would be diminished and it may not serve useful purpose and on such grounds would pray for return of the vehicle. However, the petitioner undertakes that she will produce the original R.C. Book of the vehicle as well as the address proof and further she is prepared to abide by the conditions imposed by the Court below.

4. I have perused the entire materials on record and heard the learned Additional Public Prosecutor in this regard.

5. In a case reported in 2003 SCC (Cri) 1943, Sunderbhai Ambalal Desai v. State of Gujarat, it has been held as follows:

In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

7. In view of the facts and circumstances of the case, the order dated 04.01.2006 passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in M.P. No. 7464 of 2005, is set aside and the learned Magistrate is directed to conduct an enquiry, as per the direction of the Supreme Court in the reported case as mentioned above and pass orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this petition is ordered. Consequently, connected Crl.M.P. is closed.