

**HON'BLE SRI JUSTICE K. SREENIVASA REDDY**

**Criminal Petition No.5180 of 2023**

**Order:**

This Criminal petition, under Section 482 of Criminal Procedure Code (for short 'Cr.P.C'), has been filed seeking to set aside the order dated 02.02.2023 passed in CrI.R.P.No.7 of 2022 by the learned I Additional District Judge, Chittoor, Chittoor district, and to direct release of the vehicle bearing registration No.TN-59-CK-0348 seized in Crime No.558 of 2021 of Chittoor I Town Police Station.

2. A case in Crime No.558 of 2021 of Chittoor I Town Police Station has been registered for the offences punishable under Sections 376, 354, 417, 420 and 506 read with 34 IPC. Pending the said crime, the first petitioner herein filed CrI.MP No.75 of 2022 for interim custody of Hyundai Car bearing registration No.TN-59-CK-0348 stating that he is a retired Bank employee and owner of the said Car, which was seized by the respondent police in the aforesaid crime. In the said crime, the first petitioner herein was shown as A2. By an order dated 21.03.2022, learned IV Additional Judicial Magistrate of First Class, Chittoor, dismissed the said CrI.MP by observing thus.

"Since there is no notice to the other side, property cannot be given interim custody on merits. In addition to that, the present case is exclusively triable by the Court of Session, in this regard the petitioner

has not satisfied the Court as to the entitlement of interim custody without giving notice to the other side and where the case is exclusively triable by the Court of Sessions and the vehicle is involved directly in the crime.”

3. Against the said order, the first petitioner herein filed Crl. Revision Petition No.7 of 2022 before the learned I Additional District Judge, Chittoor, and the learned Judge, by an order dated 02.02.2023, dismissed the said Revision Petition for default on the ground that there was no representation on behalf of the first petitioner herein on that date and costs were not paid.

4. It is submitted that during the pendency of the said Crl.Revision Petition, the first petitioner herein/A2 died. The second petitioner herein, who is the son of A2, has stepped into the shoes of A2 and filed an application in Crl.MP (SR) No.1778 of 2023 before the learned IV Additional Judicial Magistrate of First Class, Chittoor and the said application was dismissed, by an order dated 02.05.2023. Against the said order, the second petitioner herein filed Crl.RC No.452 of 2023 before this Court. However, the said Crl.RC was dismissed as withdrawn on 22.06.2023 with liberty to challenge the order of dismissal for default dated 02.02.2023 passed in Crl. Revision Petition No.7 of 2022 by the learned I Additional District Judge, Chittoor. Subsequently, the second petitioner herein has filed the present

Criminal Petition seeking to set aside the impugned order and release the vehicle seized in the above crime.

5. Since the father of the second petitioner herein, who is shown as A2 in the above crime and owner of the vehicle, died during the pendency of the Crl. Revision Petition, which was dismissed for default vide impugned order, this Court is of the opinion that ends of justice would be met if the second petitioner herein, who happens to be the son of A2, is permitted to file appropriate application before the learned I Additional District Judge, Chittoor, for interim custody of the vehicle.

6. Accordingly, the Criminal Petition is allowed and the impugned order dated 02.02.2023 passed in Crl.R.P.No.7 of 2022 by the learned I Additional District Judge, Chittoor, Chittoor district, is set aside. The second petitioner herein, who is the son of deceased A2, is permitted to file appropriate application before the learned I Additional District Judge, Chittoor and, on filing such application, the learned I Additional District Judge, Chittoor is directed to dispose of the same, in accordance with law, as expeditiously as possible, preferably within a period of two (2) weeks from the date of receipt of a copy of this order.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

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**K. SREENIVASA REDDY, J.**

Date:24.07.2023  
Nsr

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