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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/04/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.6164 of 2023
and
Cr1.MP(MD)No.5398 of 2023

Pandi Selvi : Petitioner
Vs.

1.The Inspector of Police,
D1, Thallakulam Police Station,
Thallakulam, Madurai.

2.Mr.Vijaya Kumar
3.Mr.Anthoni : Respondents

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the impugned notice of the 1st respondent, dated 21/03/2023 relating to the jewels pledged by the second respondent and to set aside the same as illegal and further forebear the 1st respondent from seizing the jewels pledged by the 2nd respondent, which is within the petitioner without payment of the loan amount by the 2nd respondent and to pass such other orders.

For Petitioner : Mr.K.R.Laxman

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

**ORDER**

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This criminal original petition has been filed seeking to set aside the impugned notice of the 1st respondent, dated 21/03/2023 relating to the jewels pledged by the second respondent and forebear the 1st respondent from seizing the jewels pledged by the 2nd respondent, which is within the petitioner without payment of the loan amount by the 2nd respondent.

2. The facts in brief:-

A case in Crime No.223 of 2023 was registered for the offences punishable under sections 454, 457 and 380 IPC against one Vijayakmar. The allegation in the FIR is that on 09/11/2022 at about 09.00 am, there was a quarrel between the de-facto complainant and his wife. In the above said quarrel, the wife died. He was arrested and remanded to judicial custody, on 10/11/2022. Before the arrest, he locked his house. After releasing from the prison on bail, he returned to the house, on 25/01/2023 and found the bureau broken and the jewels of 110 sovereigns found stolen. The accused was known to him earlier and later, he came to know that the accused is spending money lavishly. Smelling the involvement of the



above said Vijayakumar implicating him, he lodged a complaint.

3.Now the investigation is undertaken and during the course of investigation, it was found that the accused Vijayakumar is involved in the above said commission of theft. The theft was committed with his friend Anand and his relatives namely Ganesan and Selvakumar. On the basis of the confession statement, those three persons were arrested. During the course of the investigation and statement, the accused Vijayakumar has stated that the above said jewels stolen by him were pledged with the Muthood Finance Limited, Narimedu Branch, Madurai. On the basis of the investigation, summon under section 91 of the Criminal Procedure Code was sent to the petitioner to hand over the above said jewels to the Investigating Officer. This is, dated 21/03/2023.

4.Challenging the above said, this petition has been filed.



5.Heard both sides.

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6.Even before going to the grievance that has been expressed by this petitioner, this court made it clear to the petitioner that when the allegation of pledging the stolen jewels with the petitioner, her duty is to cooperate with the Investigating Officer to complete process of investigation.

7.The learned counsel appearing for the petitioner would submit that the petitioner is ready to cooperate with the Investigating Officer. But he would submit that in the light of the precedent that she is available on this issue, she cannot be compelled to hand over the jewels to the Investigating Officer, since she may loss the money, which was borrowed by the persons, who pledged the jewels.

8.No doubt that there are some precedent in this matter, But I do not want to go into this aspect now. Because the investigation process cannot be stalled on any ground, when the stolen jewels are available in the hands of a particular person disregarding his status,



condition and nature of the possession, the above said jewels must be returned to the owner, who is the victim at the conclusion of the trial process. The pledgee, in such cases only can proceed against the pledgor and certainly not against the victim. So that sort of right can be worked out by the petitioner somewhere else through appropriate proceedings, which we are not concerned herewith. But one thing is to be mentioned, since the petitioner stated to be the pledgee, the identification of the jewels must be undertaken by the Investigating Officer and for that purpose, she must cooperate. Let the Investigating Officer along with the de-facto complainant visit the petitioner's office and the petitioner must hand over all the jewels to the Investigating Officer for the purpose of identification. After identification is over, proper photos showing each items separately must be taken. A list must also be prepared, in which, the petitioner, the Investigating Officer as well as the de-facto complainant must sign. It must be prepared in triplicate. One copy must be given to the petitioner. Another copy may be retained by the Investigating Officer on the file. The 3rd copy must be submitted to the concerned court. After verification and



identification of the jewels, it must be returned back to the petitioner for safe custody till the disposal of the case. The petitioner may not and should not auction the jewels at any cost. The petitioner is liable to produce the same to the court as and when demanded.

9. With the above said directions, this criminal original petition is **disposed of**. Consequently, connected Miscellaneous Petition is closed.

06/04/2023

Index: Yes/No
Internet: Yes/No

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To,

1. The Inspector of Police,
D1, Thallakulam Police Station,
Thallakulam, Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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