



Crl.O.P.(MD)No.18960 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/12/2023

CORAM

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

Crl.OP (MD)No.18960 of 2023

and

Crl.MP (MD)No.14977 of 2023

M/s.Manappuram Finance Limited,

Represented by Area Head

Mr.N.M.Shanthakumaran

: Petitioner/3rd Party

Vs.

1.The State Represented by,

Inspector of Police,

Palani Taluk Police Station,

Dindigul.

(Crime No.397 of 2023)

: 1st Respondent/Complainant

2.Gunasekaran

: 2nd Respondent/De-facto

Complainant

3.Naveen Kumar

: 3rd Respondent/Accused

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the impugned summons issued by the 1st respondent u/s 91 of Cr.P.C, dated 09/10/2023 and quash the same with regard to the petitioner.

For Petitioner

: Mr.R.Sunil Kumar

For 1st Respondent

: Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)



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O R D E R

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This criminal original petition is filed seeking quashment of the summons issued by the 1st respondent, dated 09/10/2023.

2.The facts in brief:-

A case in Crime No.397 of 2023 was registered on the basis of the complaint given by one Gunasekaran. In the complaint, he has stated that gold ornaments worth about 6-1/2 sovereigns were found missing from his almirah, on 04/10/2023. It is worth about Rs.1,95,000/-. Based upon the complaint, the above said case was registered for the offences punishable under sections 454 and 380 of IPC.

3.In the course of investigation, summon was issued to the petitioner herein stating that the jewels involved in Crime No.397 of 2023 was found to be pledged by one Palani in the petitioner's Finance Company in Loan No.0105360750000014. So they were directed to produce those jewels for the purpose of remanding the same to the Crime No.397 of 2023.

4.Challenging the above said summon, this petition is filed stating that when a similar occasion arose, the



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Coordinate Bench of this Court in WP(MD)No.20169 of 2021
has observed like this:-

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"In other words, till the conclusion of the criminal case in question, the items will be retained in the same condition by the petitioner. If the criminal case registered against the third respondent ends in acquittal, it is open to the petitioner herein to act as per the terms arrived at between the petitioner and the third respondent. If at the end of the conclusion of the trial, the trial court passes any order under section 452 of Cr.P.C., the petitioner herein will of course be heard before passing such order. The petitioner is also directed to produce the articles in question as and when required by the court."

5.He has further stated that without noticing as to whether the jewels involved in the above said crime is a bona-fide pledger, loan was delivered to the pledger. As per section 173 of the Indian Contract Act, the petitioner's Finance Company can retain the pledged jewels so long as the loan amount is not settled. So they wants the summon to be quashed.



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6.Heard both sides.

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7.In serious of orders involving the subject issue, it has been repeatedly ordered by this court regarding the procedure to be followed. In a similar circumstance in ***W.P(MD)Nos.16733 of 2016 and 7361 of 2019, dated 02/09/2022 (Sriram City Union Finance Ltd., represented by its Regional Manager, P.Anandaraj Vs. The Superintendent of Police, Madurai and 5 others)***, the following order was passed by this court.

"22.So, both the writ petitions are dismissed with the following directions:-

(1)W.P(MD)No.7361 of 2019 is dismissed finding that such a direction cannot be issued to the Inspector of Police, since as per the law, they are bound to investigate the same and whether the jewels have to be recovered or not is within the investigating power of the 2nd respondent herein.

(2)W.P(MD)No.16733 of 2018 is also dismissed with liberty to the petitioner company to work out their remedy through appropriate proceedings at the relevant time through appropriate proceedings to recover the



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amount, which is involved in the above said issue. It is further directed that the petitioner company in WP(MD)No. 16733 of 2018 shall cooperate with the Investigating Officer to complete the process of investigation by sharing the information that was available with them. No costs. Consequently, connected Miscellaneous Petitions are closed."

8.The above said order will clearly stand applicable to the present subject matter also. Seeking quashment of the summon is not at all permissible as observed in the above said order. It is the duty of the petitioner to cooperate with the Investigating Officer to complete the process of investigation to find out the identity of the articles.

9.So this criminal original petition stands **dismissed** in terms of the above said consistent orders. Consequently, connected Miscellaneous Petition is closed.

06/12/2023

Index:Yes/No
Internet:Yes/No
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To,

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- 1.The Inspector of Police,
Palani Taluk Police Station,
Dindigul.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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