



W.P(MD)No.27983 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

W.P(MD) No.27983 of 2023

and

W.M.P(MD)Nos.24090, 24091 and 24092 of 2023

The Branch Manager,
Muthoot Finance Ltd.,
Murugankurichi Branch,
Tirunelveli.

... Petitioner

Vs.

1.The Sub-Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,
Tirunelveli.
Under Cr.No.574 of 2023.

2.Peratchi Selvi

3.Aruna Devi

4.Amutha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the orders passed by the 1st respondent under proceeding No. Nil, dated Nil, pertaining to seizure of the jewels pledged by 4th respondent is



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concerned and to quash the same as illegal and further forbear the respondent from seizing the Gold Jewels pledged by the 4th respondent, which is with the writ petitioner.

For Petitioner :Mr.K.R.Laxman
For R1 :Mr.R.M.Anbunithi
Addl.Public Prosecutor (Crl.side)

ORDER

This Writ petition has been filed in the nature of Writ of Mandamus, to call for the orders passed by the 1st respondent under proceeding No. Nil, dated Nil, pertaining to seizure of the jewels pledged by 4th respondent is concerned and to quash the same as illegal and further forbear the respondent from seizing the Gold Jewels pledged by the 4th respondent, which is with the writ petitioner.

2. The facts in brief:~

A case in Crime No.574 of 2023 was registered for the offences punishable under sections 381 of IPC against one Peratchi Selvi. The allegation in the FIR is that the defacto complainant and the accused are friends. On 03.03.2014, the accused came to the defacto complainant's house and stayed there in the night. The next day, on 04.03.2014, after



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the accused went away, the defacto complainant found her 55 grams of gold jewel missing. When the incident was enquired with the accused, initially she refused and later admitted that she has taken that jewel and gave it to her mother, who has pledged the jewel at Muthoot Finance. Even after the defacto complainant requested the accused to redeem the jewel, she has not returned the same. Hence she gave a complaint and the present case was registered.

3. The petitioner is a non-Banking financial institution. The fourth respondent herein had pledged the petition mentioned jewels and availed loan from the petitioner herein. According to the first respondent, the third and fourth respondents are accused in a robbery and theft case. The robbed and stolen jewels were pledged by the fourth respondent with the petitioner. The first respondent had issued the impugned communication, which is put to challenge in this writ petition.

4. The stand of the petitioner is that even according to the first respondent, the pledged jewels are obtained by the fourth respondent by theft. In any event, conclusion can be arrived at only at the conclusion of the trial.



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5. 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 fourth respondent stated to be the pledgee and the third respondent is the owner of the jewel, the identification of the jewels must be undertaken by the Investigating Officer and for that purpose, they 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



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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 third respondent / owner of the jewel, 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.

6. With the above said directions, this Writ Petition is disposed of.

Consequently, connected Miscellaneous Petitions are closed.

28.11.2023

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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G.ILANGO VAN, J

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To

- 1.The Sub-Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,
Tirunelveli.
Under Cr.No.574 of 2023.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
W.P(MD)No.27983 of 2023

Dated 28.11.2023