



W.P(MD)No.29829 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P(MD) No.29829 of 2023

The Branch Manager,
Muthoot Finance Ltd.,
Srivilliputhur Branch,
Srivilliputhur,
Virudhunagar District.

... Petitioner

Vs.

1.The Sub-Inspector of Police,
Srivilliputhur Police Station,
Srivilliputhur,
Virudhunagar District.
Under Cr.No.294 of 2022.

2.Palanikumar

3.Ramya

4.Thangamayal

... 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 records orders passed by the 1st respondent under Proceeding No.Nil,



W.P(MD)No.29829 of 2023

dated Nil, pertaining to seizure of the jewels pledged by 2nd and 3rd respondents is concerned and to quash the same as illegal and further forbear the respondent from seizing the Gold Jewels pledged by the 2nd and 3rd respondents which are pledged with the writ petitioner, in the light of the legally enforceable Charge created by the petitioner herein.

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

ORDER

This Writ Petition is filed in the nature of Writ of Mandamus to call for the records orders passed by the 1st respondent under Proceeding No.Nil, dated Nil, pertaining to seizure of the jewels pledged by 2nd and 3rd respondents is concerned and to quash the same as illegal and further forbear the respondent from seizing the Gold Jewels pledged by the 2nd and 3rd respondents which are pledged with the writ petitioner, in the light of the legally enforceable Charge created by the petitioner herein.



W.P(MD)No.29829 of 2023

2. The facts in brief:~

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A case in Crime No.294 of 2022 was registered for the offences punishable under sections 406 and 420 of IPC against two persons. The allegation in the FIR is that the defacto complainant / fourth respondent herein and the accused persons / respondents 2 and 3, are neighbours. The second respondent used to conduct poojas in his house for the devotees. On that basis, the fourth respondent herein and her husband went to the second respondent's house for pooja to improve their business. The second respondent has suggested them to offer their gold jewels for pooja. The third respondent, who is the wife of the second respondent has also insisted them. Believing the words, the fourth respondent and her husband has given totally 26 3/4 sovereigns of gold jewel to the second and third respondent. They told to keep the jewels in the pooja for 21 days. Later, when they asked for the jewels they extended the time. They repeatedly asked for the jewels and at that time, the second respondent absconded. The fourth respondent came to know that the second and third respondents have cheated other persons by getting their jewels for pooja and did not return the same. Hence she gave a complaint and the present case was registered.



W.P(MD)No.29829 of 2023

3. The petitioner is a non-Banking financial institution. The second respondent herein had pledged the petition mentioned jewels and availed loan from the petitioner herein. According to the first respondent, the second and third respondents are accused in a cheating case. The stolen jewels were pledged by the second 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 second respondent by theft. In any event, conclusion can be arrived at only at the conclusion of the trial.

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



W.P(MD)No.29829 of 2023

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 second respondent stated to be the pledgee and the fourth 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 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.



W.P(MD)No.29829 of 2023

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

Consequently, connected Miscellaneous Petitions are closed.

18.12.2023

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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To

1.The Sub-Inspector of Police,
Srivilliputhur Police Station,
Srivilliputhur,
Virudhunagar District.
Under Cr.No.294 of 2022.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P(MD)No.29829 of 2023

G.ILANGOVA, J

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Order made in
W.P(MD)No.29829 of 2023

Dated 18.12.2023