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Crl.RC.(MD)No.



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.09.2024

Pronounced on : .10.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.RC.(MD)No.764 of 2024

Ramachandran

... Petitioner

Vs.

The Inspector of Police,
Idol Wing CID Police,
Kumbakonam Range,
Thanjavur District,
Office at Ashok Nagar,
Chennai.

In Crime No.35 of 2022

... Respondent

Prayer : This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to set aside the order in E.Cr.M.P.No.58 of 2023 on the file of the learned Additional Chief Judicial Magistrate / Special Court for Idol Theft Cases, Kumbakonam, Thanjavur District dated 21.02.2024 and allow the above criminal revision case.

For Petitioner : Mr.R.Anand
For Mr.S.Sathyachidambaram

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.



ORDER

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This criminal revision case is directed against the order passed in E.Cr.M.P.No.58 of 2023 dated 21.02.2024 on the file of the learned Additional Chief Judicial Magistrate / Special Court for Idol Theft Cases, Kumbakonam, Thanjavur District dismissing the petition filed under Section 451 Cr.P.C.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3.It is not in dispute that on the basis of the Special Report of then Inspector of Police, Idol Wing, CID, Kumbakonam, Chennai, FIR came to be registered in Cr.No.35 of 2022 for the offences punishable under Sections 41(1)(d) and 102 Cr.P.C on the file of the Idol Wing, CID, Chennai and that thereafter, case was transferred to the file of the Idol Wing, CID, North Zone, Chennai and it is pending investigation.

4.The case of the prosecution is that on 16.09.2022, based on the secret information, the respondent Police searched the petitioner's idol shop, which was run by name, "Metal Craft Business", situated at No.366, Kannika Thottam, Pommaiypalayam, Arovil, Vanur Taluk, Villupuram District, and found 7 antique



idols and that since the petitioner failed to produce any valid documents for possessing idols, the said idols were seized under the cover of seizure mahazar by then Inspector of Police, Idol Wing, CID, Kumbakonam, Chennai and on the basis of the Special Report given by him, case came to be registered.

5.The case of the petitioner is that he is doing metal craft business and manufacturing idols for so many years, that he is keeping the idols which are crafted by him and he used to sell the idols in foreign countries and Boombukar sale centre and Ministry of Textiles and Artisan of Indian Government and they have also issued identity card to the petitioner, that the petitioner also got certificate to export and import of the idols, that the respondent Police seized the idols without any basis from his shop and the same are very much necessary for exhibiting and developing his art work, that if the idols are not handed over to him, his family, institution and his employees will be affected and that therefore, he was constrained to file the above application seeking interim custody of the idols seized.

6.It is not in dispute that the idols were recovered by the Idol Wing, CID and the same were produced before the Additional Chief Judicial Magistrate, which were remanded in CP.No.54 of 2022. The respondent Police has filed counter statement raising objection that out of seven idols, 2 idols are antique in nature, that the petitioner



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has not registered the same with the approved authority and he has also not furnished any explanation as to how he derived possession of the idols and that if the property is returned to the petitioner, he will not produce the same as and when it is required for the purpose of trial and he will alienate and even sell out the same with a view to drag the trial process.

7.The learned Additional Chief Judicial Magistrate by relying to Sections 14(3) and 25(2) of the Antiquities and Art Treasures Act, 1972 and by observing that two of the idols were found to be antique in nature by Archaeological Survey of India and for the remaining idols, the petitioner has not filed any stock register or any other document that the idols were manufactured by him, dismissed the petition.

8.When the matter was taken up for hearing, the learned counsel appearing for the petitioner would submit that the petitioner is restricting his prayer only with regard to five idols and he is not pressing his relief with regard to two idols, which were found to be antique in nature. The petitioner has also produced stock register and invoice for raw materials purchased by him to show that the other five idols were manufactured by them and the same were in their lawful possession.



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9. Though the learned Additional Public Prosecutor appearing for the respondent would submit that the above documents appears to be created recently, he left it to the discretion of the Court.

10. It is pertinent to note that the respondent Police under the impression that the recovered idols are antique in nature, have seized the same and on that basis, registered the case against the petitioner. In the status report filed by the respondent Police, it has been stated that they have visited the French Institute of Pondicherry and requested the Archivisit to find out whether the recovered 7 idols matches with the available collection of photos in their data base. Unfortunately, they could not find out any matches of the above said idols and they have also sent a letter to the Commissioner, Hindu Religious and Charitable Endowment Department requesting to compare the above said 7 idols with their available records and are awaiting reply.

11. It is pertinent to note that FIR came to be registered as early as on 17.09.2022 and despite lapse of two years, they are not in a position to say that the other five idols were stolen from any of the temple or from any other institution. As already pointed out, the petitioner is running a idol shop in the name of “The Metal Crafts” and according to him, he is doing metal craft business and manufacturing idols.



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12.Considering the above facts and circumstances and also taking note of the fact that the petitioner is not pressing the relief with regard to the idols found to be antique in nature and considering the nature of the objection raised by the respondent Police with regard to the five idols, this Court is of the view that the petitioner should be given interim custody of the five idols by imposing necessary terms.

13.In the result, this criminal revision case is allowed and the order in E.Cr.M.P.No.58 of 2023 dated 21.02.2024 on the file of the learned Additional Chief Judicial Magistrate / Special Court for Idol Theft Cases, Kumbakonam, Thanjavur District is hereby set aside and five idols are ordered to be returned to the petitioner for interim custody on the following conditions:-

(a) the petitioner shall execute a bond for a sum of **Rs.5,00,000/- (Rupees Three Lakhs only)**, with two sureties for a likesum to the satisfaction of the Additional Chief Judicial Magistrate / Special Court for Idol Theft Cases, Kumbakonam, Thanjavur District;

(b) the petitioner shall not alienate and shall not make any alteration in the idols;
and



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(c) the petitioner shall produce the idols before the Court and before the
respondent police as and when required;

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NCC :yes/No
Index :yes/No
Internet:yes/No
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To

1.Additional Chief Judicial Magistrate /
Special Court for Idol Theft Cases,
Kumbakonam, Thanjavur District

2.The Inspector of Police,
Idol Wing CID Police,
Kumbakonam Range,
Thanjavur District,
Office at Ashok Nagar,
Chennai.

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



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
Crl.RC.(MD)No.764 of 2024

.10.2024