

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

Crl.P.No.8286 of 2013

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.c seeking quashing of the investigation in Crime No. 389 of 2013 of Panjagutta Police Station, Hyderabad, which was registered for the offence punishable under Section 102 Cr.P.C.

The allegations in the report would disclose that on 31.05.2013 at 15.00 hrs the police stopped the petitioners who were moving under suspicious circumstances. On questioning, they revealed that they are carrying gold ornaments weighing about 6.500 grams. As no documents with regard to ownership of the goods are produced and they were brought to the police station. On enquiry, they stated that they are carrying the gold ornaments for selling the same to a jeweler in Ameerpet area. They further stated that the owner by name Harish Chand, Prop. of Ghanshyamdas Jewellery at Abids, Hyderabad is having original documents. In the presence of two Panchas, the above gold ornaments worth of Rs.1,50,00,000/- were seized. Basing on the said seizure, a case in Cr.No.389 of 2013 came to be registered for the offence punishable under Section 102 Cr.P.C.

Heard the learned counsel for the petitioners and learned Additional Public Prosecutor for the State. On instructions, the learned Public Prosecutor submits that there is no alteration of section of law.

A perusal of the material available on record would disclose the respondent herein who is the owner of the property filed Crl.P.M.P.No.1227 of 2013 seeking return of gold ornaments. By an order dated 13.06.2013, the said application was allowed and interim custody of all gold ornaments were directed to be released in favour of the respondent herein subject to execution of a personal bond for Rs.1,50,00,000/- (Rupees one crore fifty lakhs only) by producing the solvency certificate issued by the competent authority in favour of the respondent.

Assailing the aforesaid order, the petitioner filed CrI.R.P.No. 250 of 2013 seeking modification of the above said order and the said application was dismissed on 12.07.2013 by the learned III Additional Metropolitan Sessions Judge, Hyderabad.

Section 102 Cr.P.C.:

102. Power of police officer to seize certain property : (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court or whether there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same.

Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of Sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

A reading of the said proviso would indicate that it is not penal in nature. It only refers the procedure to be followed by the police officer for seizing any property which may be alleged or suspected to have been stolen, or which may be found under circumstances creating suspicion of commission of an offence. In view of the representation made by the Additional Public Prosecutor that there was no alternation of FIR making the

offence culpable in nature, the petitioner/accused can not be made liable for any penal offences.

Therefore, in the absence of any material to show that there was any alteration of Section of law in the FIR, and as there is no dispute with regard to the ownership of the property seized in the said crime, I am of the view that continuation of proceedings against the petitioner would be an abuse of process of law.

Having regard to the facts and circumstances of the case and for the aforesaid reasons, the criminal petition is allowed. Miscellaneous applications, if any, shall stand closed.

C. PRAVEEN KUMAR, J.

Date: 31.12.2013

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THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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