

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2015

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS

Crl.R.C.No.1364 of 2014

S.Viswanathan

... Petitioner

Vs.

The State of TN rep by its  
Inspector of Police,  
Vigilance and Anti Corruption  
Cuddalore.

... Respondent

Prayer :

Criminal Revision filed under Section 397 read with 401 of the Code of Criminal Procedure, seeking to call for the records of the Court of Special/ Chief Judicial Magistrate, Cuddalore District, Cuddalore in C.M.P.No.889 of 2014 dated 12.11.2014 and set aside the order and allow the revision.

For Petitioner : Mr.S.Ilamvaludhi

For Respondent : Mr.P.Govindarajan  
Additional Public Prosecutor

ORDER

The sole accused in a trap case sought for return of Rs.1,22,210/-, which was seized by the respondent during a search made in his house. Since the Trial Court dismissed his return of property petition, this revision has been directed.

2. According to the learned counsel for the petitioner, prosecution proceeded as against the petitioner on the allegation that he has demanded and received illegal gratification to discharge his public duty. The alleged bribe amount is Rs.5,000/-. Rs.1,22,210/- is his personal property which is accumulation out of his four months salary. It is not a case property. Therefore, refusal to return the said cash is not in accordance with law.

3. On the other hand, the learned Additional Public Prosecutor submitted that the petitioner has not properly accounted for the said Rs.1,22,210/-.

4. I have anxiously considered the rival submissions and perused the impugned order and petition and counter.

5. Petitioner is a Tahsildhar. On 17.07.2014, a trap was conducted. Prosecution version is that he demanded and received a bribe of Rs.5,000/- from the defacto complainant. The trap became successful. Phenolphthalene test turned positive. Evidence collected. Investigation completed. Final report is ready. But it pending for want of sanction from the competent authority to prosecute the petitioner.

6. Shortly after the trap operation, search and seizure was conducted in the house of the accused. Under the seizure mahazer Rs.1,22,210/- has been seized from his house. Return of this cash is now asked for.

7. There is no disproportionate wealth against him. It is a trap case. Case property is Rs.5,000/-.

8. Rs.1,22,210/- seized from his residence is not the case property in this case. It is not going to be exhibited as a material object in this case. It is a personal property of the accused. In the petition he has stated that it is his four months salary. The counter proceeds as though it is a disproportionate wealth case. There is no allegation or intimation to the Income Tax Department that the said Rs.1,22,210/- represents a shady transaction.

9. In the circumstances, refusal to return his said personal property is not in accordance with law.

10. In the result, this criminal revision succeeds. It is allowed. The learned Special Judge/ Chief Judicial Magistrate under P.C.Act, Cuddalore is directed to return Rs.1,22,210/- to the petitioner.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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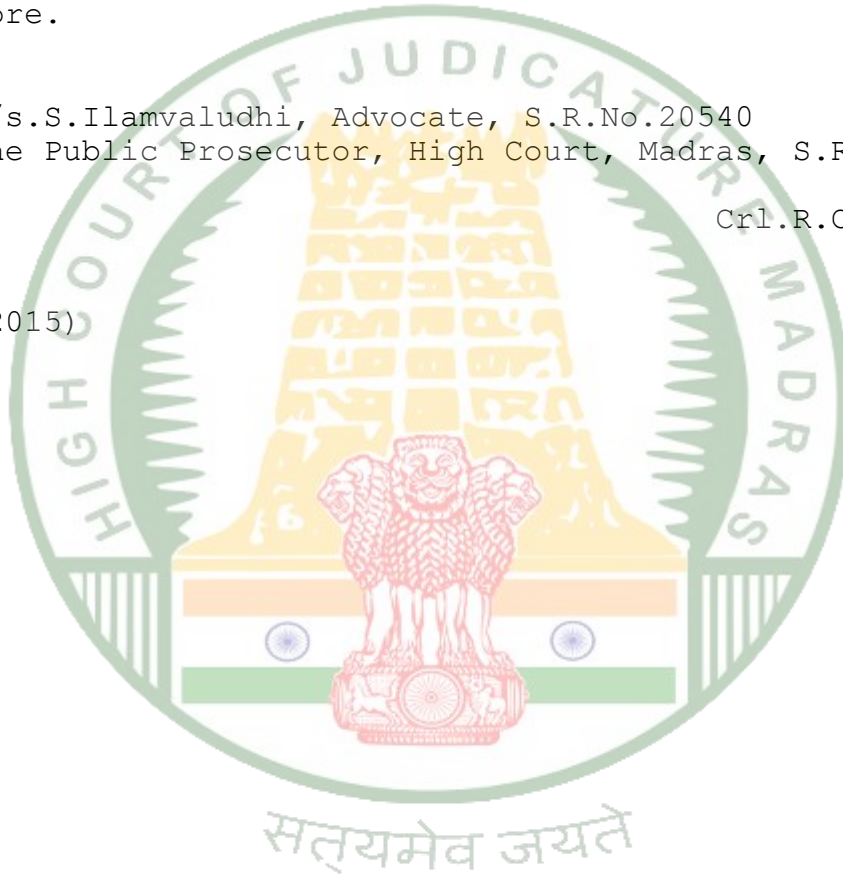
1. The Special Judge/  
Chief Judicial Magistrate under P.C.Act  
at Cuddalore.
2. The Public Prosecutor  
High Court, Madras.
3. The Inspector of Police,  
Vigilance and Anti Corruption  
Cuddalore.

+1cc to M/s.S.Ilamvaludhi, Advocate, S.R.No.20540

+1cc to the Public Prosecutor, High Court, Madras, S.R.No.20594

CrI.R.C.No.1364 of 2014

MP(CO)  
CA(23/04/2015)



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