

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 9-10-2015

Coram

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.15870 of 2015

Sunil-M-Nahata

.. Petitioner

Vs.

Tamil Nadu State Government,
rep.by The Inspector of Police,
C-1 Flower Bazaar (Crime) Police Station,
(Cr.No.790 of 2015)
Chennai District.

.. Respondent

Criminal Original Petition filed under Section 439(1)(B) of Cr.P.C. with a prayer to modify the conditional order passed in Cr.M.P.No.762 of 2015 dated 9.6.2015 (in connection with Crime No.790 of 2015 on the file of the respondent, C-1 Flower Bazaar (Crime) Police Station, Chennai District) by the Metropolitan Magistrate No.VIII, George Town, Chennai-1 to the effect that the petitioner/owner of the case property may be permitted to use the currency notes for his business purpose.

For Petitioner : Mr.P.Dhinesh Kumar
for Mr.P.Kalimuthu

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

On a complaint lodged by the petitioner, respondent Police registered a case in Cr.No.790 of 2015 under Sections 457 and 380 IPC. The crux of the allegation in the FIR is that the accused had stolen a sum of Rs.10,15,000/- and ran away. During the course of the investigation, respondent Police were able to recover and seize the cash of Rs.10,15,000/- and the same was deposited before the VIII Metropolitan Magistrate, George Town, Chennai.

2. The petitioner filed a petition under Section 451 of Cr.P.C. before the VIII Metropolitan Magistrate, George Town, Chennai, and the learned Magistrate on 9.6.2015 in Cr.M.P.No.762 of 2015 has passed the following order:

"Heard both side, records and reply perused. The learned counsel for petitioner submitted that, this petitioner is the owner of the disputed cash. This petitioner further submitted that he is in urgent need of the money. He is ready to abide the conditions imposed by this Court and to produce the case as and when required by this Court.

In turn, the respondent replied that they have no objection to handover this case to the interim custody of petitioner with conditions. Further, they have identified the petitioner as owner of property in dispute.

As per the guidance of Honourable Apex Court of India issued in "Sunder Bhat Ambalal" case this Court finds justification in handing over the cash property to its owner as interim custody. The petitioner is the de-facto complainant, the investigating officer has also supported the contention of petitioner with regard to its ownership. On perusal of ID proof this Court finds that this petitioner is the de-facto complainant. This court finds justification in handing over the case property in A.No.38/15 to the interim custody of petitioner.

Upon considering the stage of investigation, nature and circumstance of this case and undertakings of petitioner this Court is hereby inclined to place the disputed cash property with petitioner as interim custody, on the following Conditions:

1. A Panchanama has to be prepared and it shall be kept in the bundle along with Form-95
2. The cash property shall be produced as and when required by this Court.
3. The petitioner shall execute an own bond for a sum of Rs.10,15,000/- (Rupees Ten Lakhs and Fifteen Thousand only)."

3. The petitioner has executed bond and also received the money from the Court. Petitioner is aggrieved with condition No.2 inasmuch as it is the contention of the learned counsel for the petitioner that the trial of the offence may take several years and it will not be practicably feasible to keep the cash intact.

4. There is sufficient force in the submission of the learned counsel for the petitioner. After all, the victim of a crime should not be subjected to unnecessary harassment.

5. In the result, this petition is allowed and Condition No. 2 imposed in Cr.M.P.No.762 of 2015 dated 9.6.2015 by the VIII

Metropolitan Magistrate, George Town, Chennai, stands deleted. The petitioner is entitled to use the money. Respondent Police is directed to record a further statement from the petitioner as to filing of this petition before this Court and the order passed by this Court. A copy of this order can also be marked during trial to show that the petitioner has been permitted to use the money.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vr

To

1. The VIII Metropolitan Magistrate, George Town, Chennai.
 2. Thro the Chief Metropolitan Magistrate
George Town, Chennai
 3. The Inspector of Police, C-1 Flower Bazaar (Crime) Police
Station, Chennai.
 4. The Public Prosecutor, High Court, Chennai.
- 1 cc to Mr.P.Kalimuthu, Advocate, Sr. 55422

Cr1.O.P.No.15870 of 2015

KJI (CO)
kk 19/10

सत्यमेव जयते

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