

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1100 of 2015

N.Parthasarathy

.. Petitioner/Accused.

Versus

State rep.by

The Inspector of Police

(Law and Order)

J-2, Adyar Police Station

Chennai.

(Crime No.2229/15)

.. Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order dated 01.10.2015 passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai in CrI.M.P.No.2932 of 2015 and to direct the respondent to return the property, viz., I phone 5516 GB Grey Colour bearing IME No.352036063648156 seized in Crime No.2229 of 2015 to the petitioner.

For Petitioner : Mr.S.Mohanraj

For Respondent : Mr.V.Arul
Government Advocate (CrI.side)

ORDER

The petitioner has filed the above Criminal Revision case challenging the order dated 01.10.2015 passed by the Court below in rejecting the application filed by the petitioner under Sections 451 and 457 of Cr.P.C. for return of property, namely, I phone 5516 GB Grey Colour bearing IME No.352036063648156 seized in Crime No.2229 of 2015 to the petitioner.

2. The respondent-police seized the mobile phone from the petitioner in connection with the case in Crime No.2229 of 2015 alleging that the said phone was used by the accused Mani @ Manikandan @ CD Mani, who is the son of the petitioner herein. The petitioner filed a petition before the Court below under Sections 451 and 457 of the Criminal Procedure Code seeking

custody of the same. Since the same was dismissed, the petitioner has filed this revision case.

3. The learned counsel for the petitioner submitted that the petitioner is the owner of the mobile phone in question and he is not an accused. However, when police came to arrest the petitioner's son in connection with the case in Crime No.2229 of 2015, they have seized all the mobile phones available in the house, including that of the petitioner. The learned counsel also submitted that he is willing to produce the phone as and when required and he will not alienate the same till the disposal of the case. Therefore, the learned counsel appearing for the petitioner prayed this Court to allow this Criminal Revision case.

4. I have also heard the learned Government Advocate (Criminal Side) appearing on behalf of the first respondent and perused the materials available on record.

5. In the decision of this Court reported in Gajendran vs. State, through Inspector of Police, Civil Supplies CID, Madurai (2008) 6 CTC 846 it was held that valuable properties need not be unnecessarily kept in the Court custody and it can be released with sufficient safeguard. According to the petitioner, he is the owner of the mobile phone and he is not an accused in the alleged crime said to have been committed by his son. Under those circumstances, I am of the view that the order passed by the Court below refusing to return the mobile phone is unsustainable and, therefore, this Revision Petition is allowed. The Court below is directed to return the mobile I phone, 5516 GB Grey Colour bearing IME No.352036063648156 seized from the petitioner subject to the following conditions:-

(i) The petitioner shall establish the ownership of the mobile phone in question by producing the original receipt.

(ii) The petitioner shall deposit a sum of Rs.5,000/- [Rupees five thousand only] to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

(iii) The petitioner shall also furnish two sureties for a sum of Rs.10,000/- [Rupees ten thousand only] each to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

iv) The petitioner shall file an affidavit of undertaking before the learned IX Metropolitan Magistrate, Saidapet, Chennai to

the effect that he will not alienate or encumber or alter the mobile phone in any manner till the disposal of the criminal case and that he will produce the same, if directed by the Court below during the course of trial.

v) The court below shall effect return of the mobile phone to the revision petitioner after causing necessary photographs and Videographs as well as panchanama. The panchanama shall be drawn up by an officer of the Court in the presence of two Panchayatdhars and in the immediate presence of the Presiding Officer of the Court.

With the above direction, this Criminal Revision Case is allowed.

vj2

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The IX Metropolitan Magistrate, Saidapet, Chennai.
2. do thro the Chief Metropolitan Magistrate, Chennai.
3. The Inspector of Police, (Law and Order)
J2, Adyar Police Station, Chennai.
4. The Public Prosecutor, High Court, Madras

+ 1 cc to Mr.S.Mohan Raj, Advocate SR 57268

msm(co)
prk30/10

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