

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.543 of 2015

Sivakumar

.. Petitioner

Versus

State by

The Sub Inspector of Police
Natrapalli Police Station
Vellore District.

... Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 26.05.2015 passed by the learned Judicial Magistrate No.III, Thirupattur, Vellore District in CrI.M.P.No.1589 of 2015.

For Petitioner : Mr.E.Kannadasan

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 26.05.2015 passed by the Court below rejecting the application filed by the petitioner under Sections 457 of Cr.P.C. for return of property.

2. According to the petitioner, he is working as an NMR in the Public Works Department. The Revenue Divisional Officer, Vellore District on coming to know about the illegal theft of sand by the petitioner and also for taking water illegally for commercial purpose, preferred a complaint on the file of the respondent police and the same was registered by the respondent in Crime No.39 of 2015 for the alleged offences punishable under Sections 447, 430 of IPC and Section 3 of Public Property Damages Act. Further, during the inspection so made, the following materials were seized from the custody of the petitioner, viz.,

1. Tiger Engine Oil - 1 No.
2. Field Marshal Peter Oil Engine -1 No.
3. Spade - 1 No.
4. Basket - 2 Nos.
5. Wood length about 15 feet - 1 No.
6. 2 1/2" G.I.Pipe 30 feet - 1 No.
7. (i) Hip Rope Length about 40 feet - 1 No.
(ii) Length about 30 feet - 3 Nos.
(iii) Length about 20 feet - 1 No.

8. Rope Length about 20 feet - 1 No.
9. Wire 10 metres - 1 No.

3. The petitioner filed the present petition under Section 451 of Cr.P.C. seeking return of the aforementioned properties, which were seized from his custody. The Court below dismissed the said application on the ground that if the properties were handed over to the petitioner, it will hamper the investigation into the case.

4. The learned counsel for the petitioner submits that the petitioner is the owner of the seized properties. He would further submit that the same was seized on the ground that the same were allegedly used during the commission of offence. In any event, after seizure, the properties are kept in the police station in the open place and if the same are exposed to sun, rain and dust, the value of the properties will be diminished. Therefore, the learned counsel appearing for the petitioner prayed this Court to allow this Criminal Revision Petition.

5. On the other hand, the learned Government Advocate appearing for the respondent vehemently opposed for allowing the Criminal Revision Case. According to the learned Government Advocate, the ownership of the seized properties will be decided by the trial court after due evidence and therefore, the order passed by the Court below need not be interfered with. Further, returning the property to the petitioner will adversely affect the trial of the case, hence, he prayed for dismissal of the Criminal Revision Case.

6. I have heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the State. The only point raised by the petitioner is that the seized properties are valuable properties required for doing his day to day business, hence, the same ought to have been returned by the Court below.

7. 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. Following the above said decision of this Court and taking into consideration that the seized properties are required for the petitioner and having regard to the fact that the materials will be exposed to heat and dust without any maintenance and considering the fact that the respondent police had already filed the charge sheet before the Court below, this Criminal Revision Case is allowed. The Court below is directed to return the properties to the petitioner subject to the following conditions:-

i) The petitioner shall establish the ownership of the properties in question.

ii) The petitioner shall furnish two sureties for a sum of Rs.25,000/- [Rupees twenty five thousand only] each to the satisfaction of the learned Judicial Magistrate No.III, Thiruppathur, Vellore District.

iii) The petitioner shall not alienate or encumber the properties till the disposal of the criminal case.

iv) The petitioner shall produce photographs of the seized materials to the court below.

v) The petitioner shall file an affidavit of undertaking to the effect that he will produce the properties in question as and when it was directed to be produced by the court below during the course of trial.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Judicial Magistrate No.III, Thirupattur, Vellore District

2. The Public Prosecutor, Madras.

3.The Sub Inspector of Police,
Natrampalli Police station,
Vellore District.

+1 cc to Mr.E.Kannadasan, Advocate,SR.27634.

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krd 23/6

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