

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.6.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.587 of 2015

Raji

... Petitioner

Versus

The State

Rep. by its Inspector of Police
Magendra Mangalam Police Station,
Palacode Taluk,
Dharmapuri District.
(Crime No.255 of 2013)

... Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the order passed in C.M.P.No.912 of 2014 on the file of the Judicial Magistrate Court, Palacode, dated 25.02.2014 and to pass orders to return the petitioner's property of Gun to the petitioner forthwith.

For Petitioner : Mr.D.Rameshkumar

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

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the order dated 25.02.2014 passed by the Court below in rejecting the application filed by the petitioner under Section 451 of Cr.P.C. for return of property, namely, SBML Gun.

2. According to the petitioner, he is having agricultural lands in and around forest area and doing cultivation in the said lands. Since it is a forest area and dangerous animals may enter into his land and damage the agricultural crops, he applied for gun license and the same was issued by District Sessions Judge cum District Revenue Officer, Dharmapuri for his property and himself. Further, according to him, without any blemish, he is using the gun to protect his crops and cattle and he never indulged in any illegal activity.

3. While so, a case has been registered against the petitioner in Crime No.255 of 2013 under Section 27(1) of Arms Act. The petitioner filed a petition seeking bail and the same was granted by the Judicial Magistrate Court, Palacode. However, the petitioner's gun was seized by the respondent.

4. Hence, the petitioner has filed a petition under Section 451 of Cr.P.C. for return of property, namely, SBML Gun before the learned Judicial Magistrate, Palacode. The Court below, by an order dated 25.02.2014, dismissed the said petition on the ground that the respondent has sent the same to Chemical inspection to check the status of the gun. Challenging the said order, the petitioner has come up with this petition.

5. The learned counsel for the petitioner would submit that the petitioner is doing cultivation at forest area and dangerous animal may attack the petitioner at any time. The petitioner is using the gun for his safety and to secure his life from dangerous animals. Moreover, the petitioner had obtained gun license from the concerned authority. The lower Court without considering the said aspect had rejected his request.

6. The learned Government Advocate (Criminal Side) submitted that final order has not been passed by the trial Court and in order to determine the quality of the gun, the said Gun has been sent for chemical inspection to test the quality of the same. The learned Government Advocate further submitted that now the report has been received from the Chemical Analyst.

7. I have heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials available on record.

8. The only grievance of the petitioner is that since he is having valid gun license from the competent authority, it is not proper on the part of the respondent police to seize the same without any valid reason.

9. However, on a careful perusal of the records, it is seen that the trial Court has not passed any final order and the seized gun has been sent to Chemical inspection to test the quality of the same. Without knowing the quality of the Gun, final conclusion cannot be arrived at. Admittedly, the whole case is based on the report to be submitted by the chemical analyst. Therefore, at this point of time, this revision is not maintainable.

10. Further, now it is brought to the notice of this Court that the report has been received from the Chemical Analyst.

11. In view of the same, while disposing of the petition filed by the petitioner, trial Court is directed to look into the report submitted by the Chemical Analyst and dispose of the case in accordance with law, as expeditiously as possible.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court,
Palacode.
2. The Inspector of Police,
Magendra Mangalam Police Station,
Palacode Taluk,
Dharmapuri District.
3. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.D.Ramesh Kumar, Advocate, S.R.No.29602

Cr1 RC No.587 of 2015

NM(CO)
CA(26/06/2015)

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