

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.620 of 2015

Rameshkumar

... Petitioner

Versus

State rep.by
Inspector of Police
Udumalpet Police Station
Tirupur District.

... Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the order dated 31.03.2015 passed by the learned Judicial Magistrate No.I, Udumalpet in C.M.P.No.2073 of 2015.

For Petitioner : Mr.M.N.Balakrishnan

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

ORDER

The petitioner is the third party. The above Criminal Revision Petition has been filed to modify the condition Nos. (ii) and (iv) imposed by the learned Judicial Magistrate No.I, Udumalpet in C.M.P.No.2073 of 2015 of 2008 dated 31.03.2015 in the petition filed under Section 451 of Cr.P.C. for return of property, viz., cash to the tune of Rs.3,85,000/-, which was recovered from the accused persons.

2. According to the petitioner, he is a third party and while he was coming out of his Bank withdrawing a sum of Rs.4,00,000/- to be paid to his employees as salary, the accused persons snatched away the same. However, a sum of Rs.3,85,000/- was recovered from them and the same was deposited to the credit of Crime No.134 of 2015. Hence, the petitioner filed a petition before the Court below for return of the cash and though the same was ordered, the learned Judge imposed the following onerous conditions:

(i) The property (currency) shall not be sold or transferred or encumbered.

(ii) The petitioner shall produce the currency as and

when required by the Court and at the time of trial. Aggrieved against the aforesaid conditions, the petitioner has come forward with this revision.

3. The learned counsel for the petitioner submits that the petitioner is unable to comply with the onerous conditions imposed by the below as the cash cannot be kept idle without any purpose being served. Moreover, the petitioner has to disburse salary to the employees working under him. Hence, he cannot produce the currency as ordered by the court below as and when required. He would further submit that the Court below has also ordered for taking photographs of the currency and the CD copy also has been submitted before the Court below and the same could be very well marked as a secondary evidence in the matter. Accordingly, he would pray for modifying the aforesaid two conditions, viz., condition Nos.(ii) and (iv) imposed by the Court below.

4. Learned Government Advocate (Criminal side) appearing for the respondent also submitted that since the property being currency notes, the same cannot be kept idle for so long. Hence, if the petitioner submits photographs of the currencies and also CD copies, the same shall be returned back to the petitioner.

5. I have considered the submissions made on either side and perused the order passed by the Court below.

6. As rightly pointed out by the learned counsel for the petitioner, the currency notes cannot be kept so long, so to say, till the completion of trial. It is also seen that the accused persons have snatched the cash from the petitioner, while he was coming out of the Bank and a case also has been registered against the accused persons. The court below also has ordered for taking photographs of the currency and also directed the petitioner to submit CD copies and negatives of the photographs so taken, along with the signatures of the petitioner and the Investigating Officer. When such a condition has been imposed, the Court below can very well use it as a secondary evidence. It is also seen that as ordered by the Court below, the petitioner has also executed a bond for a sum of Rs.8,00,000/- with one surety for the like sum.

7. In view of the same, the condition Nos. (ii) and (iv) imposed by the Court below is modified and the petitioner is directed to take one more photograph copy depicting the currency notes and also submit a CD copy of the same before the Court below. On complying with the aforesaid condition, the Court below is directed to return the cash, viz., a sum of Rs.3,85,000/- seized from the accused persons, to the petitioner. The photographs and CDs so submitted by the petitioner shall be treated as a secondary evidence.

8. With the above direction, this Criminal Revision Case is ordered.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Judicial Magistrate No.I,
Udumalpet
2. The Inspector of Police,
Udumalpet Police Station,
Tirupur District.
3. The Public Prosecutor, Madras

+1cc to Mr.M.N.Balakrishnan, Advocate, S.R.No.31180

Crl RC No.620 of 2015

GGK(CO)
CA(16/07/2015)



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