

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.8.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case Nos. 867 and 868 of 2015

Nithiyaanandam

... Petitioner in
Crl.RC.No.867 of 2015

Saravanan

... Petitioner in
Crl.RC.No.868 of 2015

Versus

State by
Inspector of Police
Sathavasal Police Station
Thiruvanamalai District

... Respondent in both sides

Criminal Revision Petitions filed under Section 397 and 401 of Cr.P.C. against the order dated 31.7.2015 made in Crl.MP.Nos.4422 of 2015 and 4415 of 2015 on the file of the Judicial Magistrate Court, Polur, Thiruvanamalai District and direct the respondent to handover the cell phone Samsung 3322 in IMEI No.354322065788424 and HTC Desire 820 IMEI 354920061377454 respectively to the petitioners.

For Petitioner : Mr.M.Sathishkumar

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

सत्यमेव जयते
C O M M O N O R D E R

The petitioners have filed the above Criminal Revision Petitions challenging the order dated 31.07.2015 passed by the Court below rejecting the applications filed by the petitioners under Section 451 of Cr.P.C. for return of property, namely, cell phone, Samsung 3322 in IMEI No.354322065788424 and HTC Desire 820 IMEI 354920061377454 respectively.

2. The petitioners were arrayed as accused Nos.6 and 9 respectively in Crime No.80 of 2015 for the offence punishable under Sections 147, 148, 342, 363, 384, 386, 506(ii) IPC, which was registered on 15.06.2015. According to the prosecution, the petitioners were involved in the offence of kidnapping and based on

reliable information, they seized the cell phones from the petitioners during the offence and the conversation of ransom demand of the accused is also took place in the cell phones. Therefore, at the time of offence, the property, namely, Samsung 3322 in IMEI No.354322065788424 and HTC Desire 820 IMEI 354920061377454 respectively have been recovered.

3. The petitioners have filed the present petitions under Sections 451 of Cr.P.C. for return of property, namely, Samsung 3322 in IMEI No.354322065788424 and HTC Desire 820 IMEI 354920061377454 respectively, which were seized from their custody. The Court below dismissed the said applications on the ground that if the properties were handed over to the petitioners, it will hamper the investigation.

4. The learned counsel for the petitioners submits that the petitioners are the owner of the seized cell phones and the same were purchased by them on 24.11.2014 and 19.4.2015 respectively. The petitioners have produced the original receipt in invoice Nos.2208 and 6015 issued by the vendor to establish their ownership. Further, the seized cell phones are kept idle without proper maintenance, which would result in diminishing its utility value and therefore also, the Court below ought to have returned the properties to the petitioners instead of rejecting the applications.

5. On the other hand, the learned Government Advocate appearing for the respondent vehemently opposed the Criminal Revision Petitions. According to the learned Government Advocate, the petitioners were involved in the offence of kidnapping and the petitioners herein have played a main role in the case and if the property is returned back to the petitioners, it will create the problem and also affect the case and, therefore, the order passed by the Court below need not be interfered with. Further, returning the property to the petitioners will adversely affect the trial of the case, hence, he prayed for dismissal of the Criminal Revision Petitions.

6. I heard the learned counsel for the petitioners as well as the learned Government Advocate appearing for the State. The only point raised by the petitioners is that the seized properties are valuable properties and the same is kept idle the same will loose its value and hence, the same ought to have been returned by the Court below.

7. Admittedly, the petitioners herein are the accused in the case and the case relates to kidnapping. The seized Cell phones have been marked as M.Os. as the conversation of ransom demand of the petitioners took place in the said cell phones. Further, as rightly pointed out by the Court below, if the properties were handed over to the petitioners, it will hamper the investigation of the case, as the investigation is pending in this case. Therefore, the Court below has rightly dismissed the petitions filed by the petitioners.

8. In view of such circumstances, I do not find any reason to interfere with the reasoned order of the Court below. The Criminal revision Cases are dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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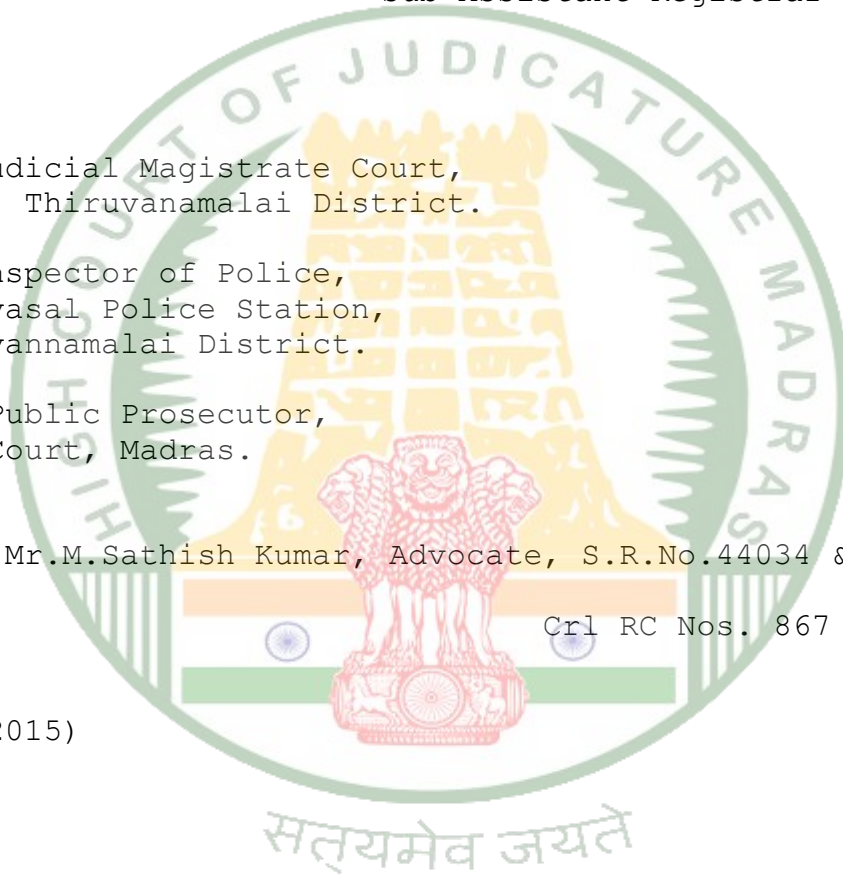
To

1. The Judicial Magistrate Court,
Polur, Thiruvannamalai District.
2. The Inspector of Police,
Sathavasal Police Station,
Thiruvannamalai District.
3. The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.M.Sathish Kumar, Advocate, S.R.No.44034 & 44035

Crl RC Nos. 867 and 868 of 2015

KM(CO)
CA(10/09/2015)



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