

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.11.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

Cr1.R.C.No.963 of 2015

M.Yuvaraj

...Petitioner

vs.

1. The State Rep. By
Inspector of Police
J-11, Kannagi Nagar Police Station
Adayar, Chennai
(Crime No.1807 of 2015)

2. Mr.Jaganathan

...Respondents

Criminal Revision filed u/s.397 & 401 Cr.P.C. to set aside the order dated 05.08.2015 in C.M.P.SR.No.6699 of 2015 in Crime No.1807 of 2015 passed by the Judicial Magistrate, Alandur.

For Petitioner : Mr.I.Ramu

For Respondents : Mr.C.Iyyapparaj
Govt. Advocate (Cr1.side) for R1

O R D E R

This petition challenges the return of the petition moved under Section 451 Cr.P.C in C.M.P.SR.No.6699 of 2015 by the learned Judicial Magistrate, Alandur.

2. In refusing to consider such petition, the Court below, on the consideration that an earlier application for return of property moved in C.M.P.No.4727 of 2015 was partly allowed by it on 26.06.2015, has considered the further application for return of property not maintainable. In partly allowing C.M.P.No.4727 of 2015, the Court below has taken into consideration the position that while some of the articles, return of which was sought, tallied with the recoveries made, others did not. In

answering the return of C.M.A.SR.No.6699 of 2015, petitioner has informed that a further statement stands recorded and given the changed circumstance, the Court could entertain a further petition for return of property.

3. Heard both parties and perused the records.

4. When on an earlier occasion an application for return of property has been partly rejected in respect of certain properties and a further statement recorded from the complainant justifies the return of further properties to him, the Court below ought to have considered the application in C.M.P.SR.No.6699 of 2015, after hearing the respondent on the matter, on merits.

Accordingly, this revision shall stand allowed and the order of the learned Judicial Magistrate, Alandur 05.08.2015 passed in C.M.P.SR.No.6699 of 2015 in Crime No.1807 of 2015 on 05.08.2015 shall stand set aside. The trial Court is directed to number C.M.P.SR.No.6699 of 2015 and after hearing both petitioner and respondent, pass orders on merits.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gpa

To

The Judicial Magistrate
Alandur, Chennai.

1 CC to Mr.L.Ramu, Advocate SR.No. 63331

AK (CO)
PSI (26.11.2015)

Cr1.R.C.No.963 of 2015