

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.08.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. R.C.No.1369 of 2013

N.V.Mohan Raj

.. Petitioner

vs.

State rep.by
Inspector of Police
CBI/ACB/Chennai
Crime No.RC No.35(A)/2012

.. Respondent

Revision under Sections 397 and 401 of Criminal Procedure Code to set aside the order dated 16.4.2013 made in Crl.M.P.No.1738/2013 on the file of the Principal Special Judge for CBI Cases at Chennai insofar as the rejection of return of Locker key G 873, Iyyappathangal Primary Cooperative Bank Limited by allowing the present Criminal Revision Petition.

For petitioner : Mr.B.Kumarasamy

For respondent : Mr.K.Srinivasan,
Spl.Public Prosecutor

ORDER

This Criminal Revision Case has been directed against the order dated 16.4.2013 passed in Crl.M.P.No.1738 of 2013 by the Principal Special Judge for CBI Cases at Chennai.

2. The revision petitioner herein, as petitioner, has filed the petition in Crl.M.P.No.1738 of 2013 under section 451 of Cr.P.C, praying to hand over the things mentioned therein.

3. The court below, after considering the rival contentions put forth on either side, has allowed the petition in part and with regard to return of locker key, the court below has dismissed the petition. Against disallowed portion, the present Criminal Revision Case has been preferred.

4. The learned counsel appearing for the revision petitioner has contended that the locker in question contains several jewels and the same have been purchased even prior to occurrence and the specific case put forth on the side of the prosecution is that the petitioner

has misused Rs.32 Lakhs and during the course of investigation, the same has been seized from the petitioner, but the respondent has unnecessarily seized the locker as well as its key and under the said circumstances, the petition in question has been filed, but the court below without considering the case of the prosecution as well as the contention put forth on the side of the petitioner, has erroneously dismissed the petition in respect of locker and key and therefore the order passed by the court below is liable to be set aside.

5. The learned Special Public Prosecutor has fairly conceded that in respect of the amount involved in the crime, proper seizure has been made and accordingly Rs.32 lakhs have been seized from the petitioner and during the course of investigation, the jewels in the locker have been seized and the proper inventory has been taken.

6. On the side of the respondent, inventory list has been submitted for the perusal of the court and the Court has perused the same and found that all the jewels have been purchased or acquired even prior to the date of commission of alleged offence and further, as pointed out on the side of the revision petitioner, the money involved in the crime has already been recovered. Since the money involved in the crime has already been recovered from the revision petitioner, this Court is of the view that retention of seizure of locker and its contents is totally unwarranted. The court below, without considering the case of the prosecution and also without considering the seizure of Rs.32 Lakhs from the revision petitioner, has erroneously dismissed the petition in respect of locker key and therefore, the order passed by the court below with regard to locker key, is liable to be set aside.

In fine, this Criminal Revision Case is allowed and the order dated 16.4.2013 passed in Crl.M.P.No.1738 of 1031 with regard to return of locker key by the court below is set aside and the petition is allowed in toto.

The petitioner is entitled to get the locker key in question and directed to open and verify contents of locker in accordance with the inventory proceedings dated 22.2.2013 and that too, in the presence of the respondent.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Principal Special Judge
for CBI Cases at Chennai

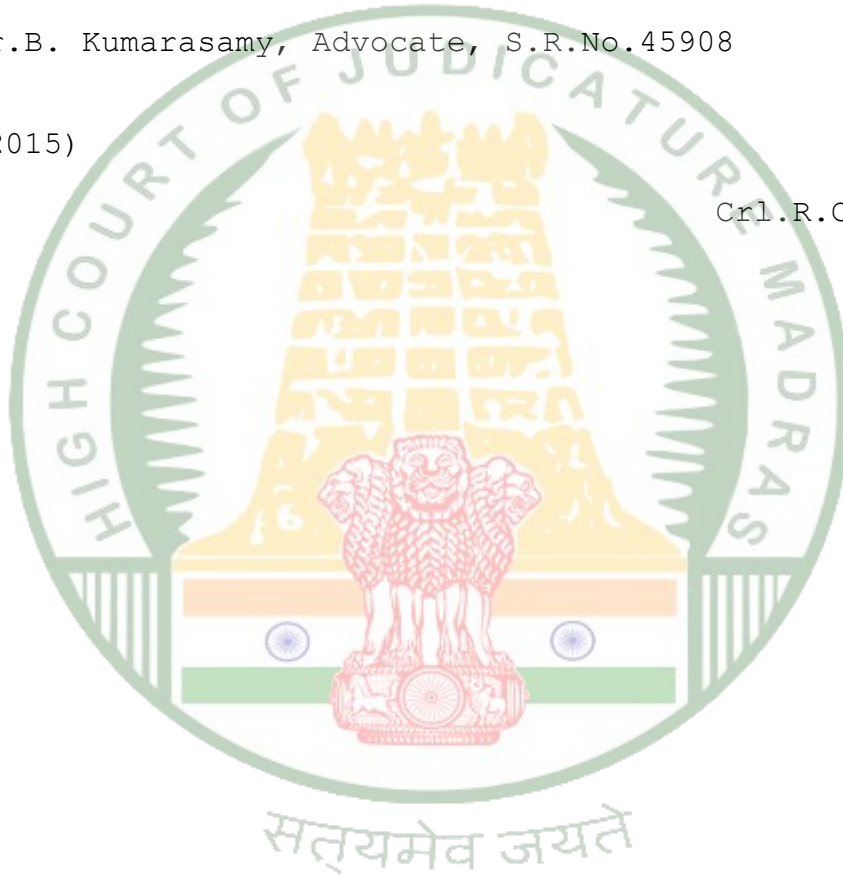
2. Inspector of Police
CBI/ACB/Chennai

3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.B. Kumarasamy, Advocate, S.R.No.45908

KU(CO)
EU(11/09/2015)

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