

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.04.2015

Coram:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.6782 of 2015

S.Muthaian

..Petitioner

Vs.

State rep. by
Inspector of Police,
Kotagiri, Nilgiris District

..Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to modify the conditional order dated 25.02.2015 passed by the learned Judicial Magistrate, Kotagiri in C.M.P.No.387 of 2015 in C.C.No.2 of 2015 granting interim custody of cash property of Rs.1,13,650/- to the petitioner on a condition to produce the cash property of Rs.1,13,650/- as and when directed by the court to any other condition.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.C.Emalias
Additional Government Pleader

ORDER

This Petition has been filed by the petitioner/defacto complainant aggrieved by the Condition No.2 of the Order dated 25.02.2015 passed by the learned Judicial Magistrate, Kotagiri in C.M.P.No.387 of 2015 in C.C.No.2 of 2015, in which it is stated that the petitioner shall produce the cash property of Rs.1,13,650/- as and when directed by this court.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

3.It is seen that there was a robbery in the house of the petitioner and the complaint lodged by the petitioner was registered as a case in Crime No.186 of 2014 for offences under Sections 457 and 380 of IPC by the respondent police and during the course of investigation they had arrested the accused and seized the cash of Rs.1,13,650/- and deposited the same before the concerned court in PR.No.74 of 2014. After completing investigation, the police has

filed a charge sheet and the same has been taken on file in C.C.No.2 of 2015 by the learned Judicial magistrate, Kotagiri and the same is pending. While so, the petitioner filed a petition under Section 451 of Cr.P.C., in C.M.P.No.387 of 2015 for return of cash amount of Rs.1,13,650/- before the trial court.

4. By a well considered order, the trial court allowed the application by an order dated 25.02.2015 on the following conditions:-

"..1. The petitioner shall execute a bond for a sum of Rs.1,15,000/- along one surety for likesum.

2. The petitioner shall produce the cash property of Rs.1,13,650/- as and when directed by this court.

This court directs to prepare panchnama in the presence of accused before handing over cash property to the petitioner. The panchnama shall contain details of the currency notes, the case details and shall be drawn in the presence of the presiding officer of this court and two independent witnesses. Accordingly petition disposed of ."

5.In the considered opinion of this Court, the said Condition No.2 is too onerous, especially asking the victim to keep the cash property of Rs.1,13,650/- in tact and produce them as and when directed by the trial court.

6.For all the above reasons, the order dated 25.02.2015 passed by the learned Judicial Magistrate, Kotagiri in C.M.P.No.387 of 2015 in C.C.No.2 of 2015, the Condition No.2, namely, the petitioner shall produce the cash property of Rs.1,13,650/- as and when directed by this court, alone shall be deleted. If the accused does not co-operate for preparing the Panchnama stated in Condition No.3, the learned Magistrate may record the same and proceed with the making of the Panchnama. Accordingly, this petition is disposed of.

ssd

-s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,
Kotagiri, Nilgiris District

2. The Judicial Magistrate,
Kotagiri
3. -do- thro' The Chief Judicial Magistrate,
Nilgiris.
4. The Public Prosecutor,
High court, Madras.

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Cr1.O.P.No.6782 of 2015



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