



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2015

CORAM:

THE HONOURABLE MRS.JUSTICE S.VIMALA

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Criminal Revision Case (MD)No.420 of 2015

R.S.Marimuthu

.. Petitioner/Petitioner/
Accused

Vs.

State through
The Inspector of Police,
Vigilance and Anti Corruption,
Nagercoil.
(Cr.No.5 of 2011)

.. Respondent/Respondent/
Complainant

Revision is filed under Section 397 and 401 Cr.P.C. to set aside the order passed by the learned Special Court/Chief Judicial Magistrate Court, Nagercoil in CrI.M.P.No.753 of 2015 dated 12.08.2015 in Special Case No.7 of 2012, direct the trial Court to return the amount of Rs.47,000/- seized by the respondent from the house of the petitioner under the house search list prepared between 10.00 p.m. and 11.00 p.m. on 15.06.2011.

For Petitioner : Mr.M.Saravanan
For Respondent : Mr.P.Kandasamy
Government Advocate

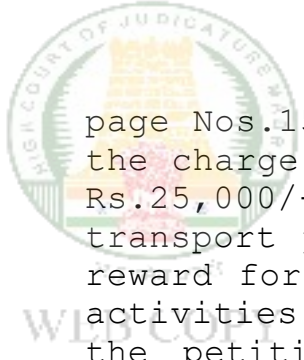
ORDER

The petitioner herein, a public servant, facing charges under Sections 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, seeks return of cash of Rs.47,000/- which had been allegedly recovered from his house during the search conducted by the respondent herein. Seeking the similar relief, a petition was filed under Section 451 of the Code of Criminal Procedure before the Special Judge. That application was dismissed by the order dated 12.08.2015. This order is under challenge, in this revision petition.

2.It is the case of the revision petitioner that he is facing trial before the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil in S.C.No.7 of 2012, but there is no charge with reference to the amount of Rs.47,000/-, which was recovered from his house.

<https://hcservices.ecourts.gov.in/hcservices/>

3.This Court perused the charges framed as against the accused person. The charge sheet is filed in the typed set of papers at



page Nos.15 to 17. A perusal of the charge sheet would reveal that the charge against the accused person is that he demanded a sum of Rs.25,000/- as illegal gratification for the issue of 200 transport passes and that he received a sum of Rs.20,000/- as a reward for issuing those passes from the defacto complainant. The activities complained of is described as a criminal misconduct and the petitioner is stated to have committed offences punishable under Section 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1998.

4. So far as the amount of Rs.20,000/- is concerned, it is the case property and has been marked as M.O.1 before the concerned Special Court.

5. So far as the amount of Rs.47,000/- is concerned, there is no charge at all pertaining to that amount and pointing out this omission to frame charges, the learned counsel for the revision petitioner would submit that no purpose would be served by keeping the amount in Court custody.

6. The learned Government Advocate (crl. Side) would submit that the prosecution may come forward with supplementary charges and if at all supplementary charges are framed, then this property would be required.

7. This contention cannot be a ground to refuse the relief claimed by the petitioner, but this contention can be taken care of by imposing appropriate conditions while ordering return of property.

8. Relying upon the decision reported in SELVAM v. INSPECTOR OF POLICE, SALEM DISTRICT, dated 03.02.2012 of this Court, it is contended that photographs of the cash (note) can be used as secondary evidence during trial for which the petitioner will not have any objection and therefore, there need not be any impediment to return the property to the petitioner.

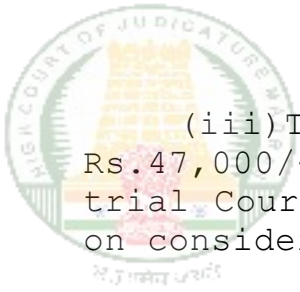
9. The contention of the petitioner is acceptable and subject to imposition of conditions which would protect the interest of both sides, the property can be ordered to be returned to the petitioner. If at all, on filing of supplementary charges, if this property is required to be marked, the petitioner shall have no objection for marking the mahazar/photographs.

10. The property of Rs.47,000/- of which there are no charges, is ordered to be returned to the petitioner subject to the following conditions:-

(i) The petitioner shall furnish bank guarantee to the extent

<https://e-services.hcscs.go.in/010services/>

(ii) It is open to the respondent to take digital record of the entire cash to be returned to the petitioner herein;



(iii) The petitioner shall give an undertaking to redeposit Rs.47,000/-, if any supplementary charges are framed or if the trial Court orders the return of the amount for any other reason, on consideration of facts and circumstances of the case.

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11. The Criminal Revision Petition is disposed of accordingly.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Special Court/Chief Judicial Magistrate,
Nagercoil.
2. The Inspector of Police,
Vigilance and Anti Corruption,
Nagercoil.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.M.SARAVANAN, ADVOCATE IN SR NO. 54682

RJ2

TE/AAL-MPA/ 06/10/2015 3P/5C

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15.09.2015