

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1102 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order dated 22.04.2015 passed in Crl.M.P.No.2094 of 2014 in S.T.C.No.73 of 2014 on the file of the Judicial First Class Magistrate, Special Mobile Court at Nagarkurnool, whereby the Court below dismissed the petition filed by the petitioner for the interim custody of the property, i.e., cash of Rs.3,24,000/-, which was seized by the police, Achampet in Consecutive No.6 of 2014.

The brief facts of the case are as follows. The case is registered against the husband of the petitioner herein for possessing Rs.3,24,000/- during the election period and on information, the respondent police raided the house of the petitioner and found Rs.3,24,000/- in the bedroom of the petitioner herein. It is the case of the prosecution that the said amount is intended to be distributed to the voters in order to get votes in the election.

Heard and perused the material available on record.

Learned counsel for the petitioner submitted that the petitioner is nothing to do with the offence alleged against the petitioner herein. It is the case of the petitioner that she is in possession of the said amount since she sold one plot for a sum of Rs.14,20,000/- and the said amount of Rs.3,24,000/- is part of the sale proceeds.

The Court below dismissed the petition filed by the petitioner for the interim custody of the said amount of Rs.3,24,000/- on the ground that if the offence is proved, it is subject to confiscation.

This Court is of the view that it is true that on confiscation, the money is liable to be confiscated. But, at the same time, the provision under Section 451 Cr.P.C., speaks about the safe custody of the property concerned.

Considering the facts and circumstances of the case, the petitioner is directed to execute a Bank Guarantee for a sum of Rs.3,24,000/- and on such execution of Bank Guarantee, the trial Court is directed to return the amount of

Rs.3,24,000/- to the petitioner herein. After due trial, if the trial Court finds that the petitioner/accused is guilty of the offence, the petitioner has to forfeit the Bank Guarantee amount and that the said amount is liable to be confiscated to the State.

The Criminal Revision Case is accordingly disposed of. Consequently, the miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

25.06.2015
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