

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13117 of 2016

V.Madhan Kumar ...Petitioner

Vs

1.The Inspector of Police,  
B1 Police Station, Big Bazaar Street,  
Coimbatore.

2.Muthoot FinCorp Limited,  
Oppanakara Street,  
Coimbatore  
Rep. By its Branch Manager  
V.Ravindran  
S/o.V.Vadivel ...Respondents

Prayer:- Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the 1<sup>st</sup> respondent to seize the property in P.R.Nos.383 & 635/2014 vide Receipt No.6098 from the 2<sup>nd</sup> respondent in C.C.No.304 of 2014 on the file of Judicial Magistrate V, Coimbatore and handed over the same to the petitioner.

For Petitioner :Mr.I.Abrar MD Abdullah

For Respondent :Mr.C.Emalias  
No.1 Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking a direction to the 1<sup>st</sup> respondent to seize the property in P.R.Nos.383 & 635/2014 vide Receipt No.6098 from the 2<sup>nd</sup> respondent in C.C.No.304 of 2014 on the file of Judicial Magistrate No.V, Coimbatore and hand over the same to the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

3. On the complaint lodged by the petitioner, the first respondent, police registered a case in Crime No.207 of 2014

for offence under Section 381 IPC and after completing the investigation, filed the final report before the learned Judicial Magistrate No.V, Coimbatore, in C.C.No.304 of 2014 against one Chandrasekaran and A.Shansa and the case is now pending.

4. It is the case of the petitioner that he is the owner of the Jewellery shop and that, Chandrasekaran and Shansa were employees under him and they had stolen 300 gms Gold Jewellery, pursuant to which, the aforesaid FIR was registered. The accused were arrested and substantial portion of the jewellery was recovered and handed over to the petitioner under Section 451 Cr.P.C. While so, it appears that a Gold Chain weighing 40 grams was pledged by Chandrasekaran with Muthoot FinCorp Limited, Oppanakara Street, Coimbatore, under receipt No.6098 and the said Chandrasekaran has received a sum of Rs.75,000/-. Muthoot FinCorp Limited has accepted the Gold Chain on the bonafide plea that Chandrasekaran is the owner of it and granted Jewellery loan.

5. Now, it appears that there are prima facie materials to show that the Gold Chain is a stolen property and therefore, Muthoot FinCorp Limited cannot have a better title than that of the accused. The first respondent police filed a petition in CrI.M.P.No.4234 of 2014 under Section 91 of Cr.P.C in Crime No.207 of 2014, based on which, the learned Judicial Magistrate has passed a very detailed and reasoned order dated 02.09.2014, by which, the property has been produced before the learned Judicial Magistrate and has been temporarily given custody to Muthoot FinCorp Limited. No notice was ordered to the petitioner in CrI.M.P.No.4234 of 2014. Hence, he is before this Court.

6. Taking into consideration the facts and circumstances, this Court is of the view that it will serve the interest of justice, if the petitioner is given an opportunity to file an application under Section 451 Cr.P.C before the learned Judicial Magistrate No.V, Coimbatore and on such filing, the learned Judicial Magistrate No.V is directed to pass appropriate orders with regard to the interim custody of gold chain to the petitioner, after hearing Muthoot FinCorp Limited and the state.

7. The learned Judicial Magistrate No.V is directed to pass appropriate orders on the petition without being influenced by the earlier order dated 02.09.2014 in CrI.M.P.No.4234 of 2014. The order under Section 451 Cr.P.C is not final and it is open to the Court to change custody in appropriate cases.

With the above direction, this criminal original petition is closed and the learned Judicial Magistrate No.V is directed to dispose of the petition to be filed by the petitioner within a period of four weeks of the date of filing.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

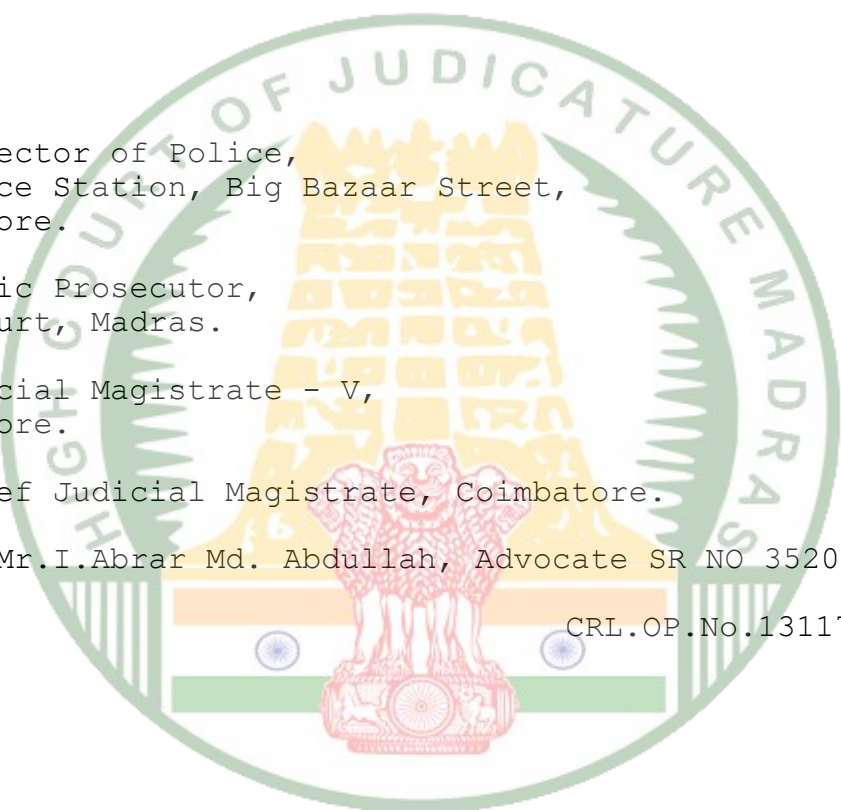
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To

- 1.The Inspector of Police,  
B1 Police Station, Big Bazaar Street,  
Coimbatore.
  - 2.The Public Prosecutor,  
High Court, Madras.
  - 3.The Judicial Magistrate - V,  
Coimbatore.
  4. The Chief Judicial Magistrate, Coimbatore.
- + 1 CC to Mr.I.Abrar Md. Abdullah, Advocate SR NO 35204

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RV[CO]  
GP/19.7.

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant. The entire emblem is set against a background of green and white stripes. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the emblem. At the bottom, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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