

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2016

CORAM

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM,

C.R.L.R.C.No.1019 of 2016

Rafik Raja

... Revision Petitioner / Accused

- Vs -

State Represented by
Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
Crime No.64 of 2016.

... Respondent/Complainant

Prayer : This Criminal Revision Case is filed under Section 397 (1) and 401 of Criminal Procedure Code, against the order dated 25.07.2016 passed by the Learned Judicial Magistrate No.II, Tiruppur in C.M.P.No.3208 of 2016 and prays to set aside the same in respect of the condition No.I that the petitioner/accused shall deposit a fixed deposit of Rs.6,05,000/- drawn in the name of Judicial Magistrate No.II, Tiruppur.

For Petitioner : Mr.Mr.L.Mouli

For Respondent : Mrs.M.F.Shabana

Govt. Advocate (Crl.Side)

O R D E R

This revision is filed by the petitioner against the order dated 25.07.2016, passed by the learned Judicial Magistrate No.II, Tiruppur in respect of condition No.I, that the petitioner/accused shall deposit a fixed deposit of Rs.6,05,000/- drawn in the name of Judicial Magistrate No.II, Tiruppur being the payment equal to the value of the properties sought for return as interim custody.

2. The learned counsel for the petitioner mainly contended that the petitioner herein has purchased a car on 23.04.2015 by availing loan in H.D.F.C. Bank for a sum of Rs.4,00,000/-but, the trial court imposed onerous condition to deposit a sum of Rs.6,05,000/-. The first condition imposed by the trial court is no basis and not correct. Hence, the order of the Magistrate in respect of the condition No.I has to be quashed and the revision has to be allowed.

3. The learned counsel for the respondent would contend that the trial court, after perusing the entire evidence and facts and circumstances of the case, passed appropriate order and therefore, there is no illegality or infirmity in the order

passed by the trial court. Hence this revision case may be dismissed.

4. In this case, on the basis of the complaint given by one Mr.S.Nandakumar, S/o.Mr.P.Soundarajan Crime No.64 of 2016 dated 22.01.2016 was registered against the present petitioner/Accused under Sections 406, 420, 506(i) of I.P.C. The accused created false documents and misappropriated a sum of Rs.18,66,847/-. The same was questioned by the de-facto complainant which the accused admitted but refused to pay the amount and threatened the defacto complainant. Hence, the complainant has given a complaint before the Police Station. During investigation, the petitioner's vehicle was seized by the Investigating Authority on the ground that the vehicle was purchased by misappropriating the amount from the defacto complainant. The accused filed a petition before the Trial Court for the return of the property.

5. Considering the facts and circumstances of the case, the trial court ordered for return of the property by imposing certain conditions and the condition No.1 is as follows:-

'1. The Petitioner / Accused shall deposit a fixed deposit of Rs.6,05,000/- (Rupees Six Lakhs and Five Thousand Only) drawn in the name of Judicial Magistrate No.II, Tiruppur being the payment equal to the value of the properties sought for return as interim custody. (The above value of the properties was furnished by the petitioner in this application).'

6. Considering the facts and circumstances of the case and also the value of the property worth about Rs.6,00,000/- and in view of the fact that the vehicle was purchased during the year 2015, this Court is inclined to modify the first condition alone to the effect '1. The Petitioner / Accused shall deposit a fixed deposit of Rs.4,00,000/- (Rupees Four Lakhs Only) drawn in the name of Judicial Magistrate No.II, Tiruppur being the security for the value of the properties sought for return as interim custody. The other conditions imposed by the trial court remains unaltered.

7. In the result, the revision case is allowed in part and the first condition imposed by the trial court is modified to the effect that '1. The Petitioner / Accused shall deposit a fixed deposit of Rs.4,00,000/- (Rupees Four Lakhs Only) drawn in the name of Judicial Magistrate No.II, Tiruppur being the security for the value of the properties sought for return as interim custody. The other conditions imposed by the trial court remains unaltered.

Sd/-
Assistant Registrar(J)

To

1. Judicial Magistrate No.II,
Tiruppur.

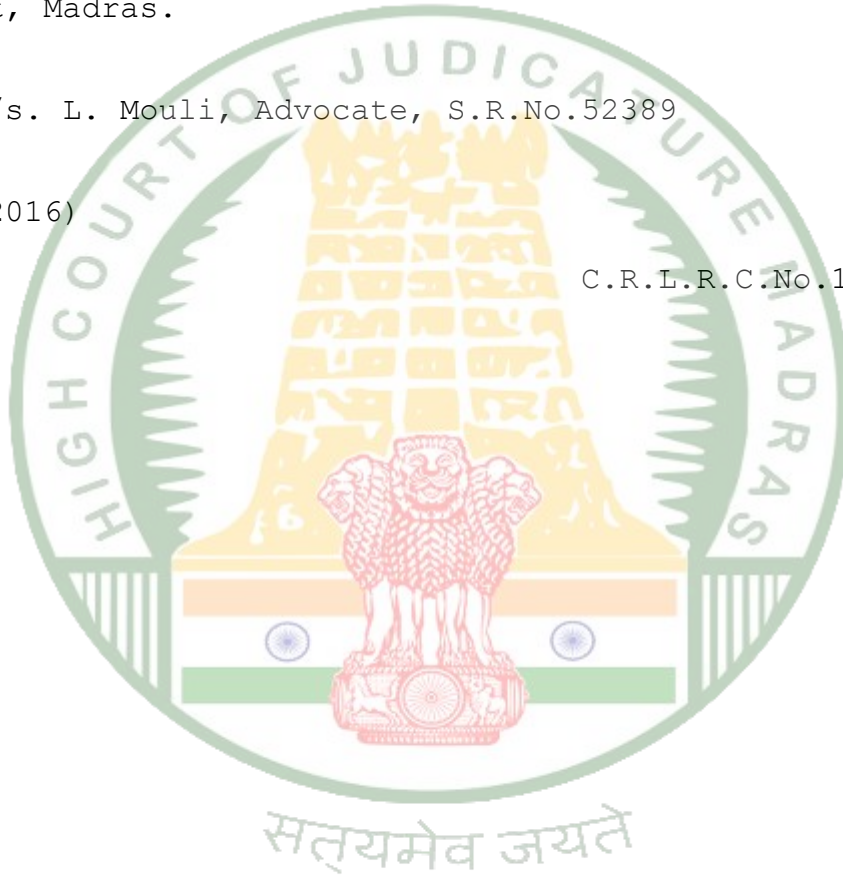
2. Inspector of Police,
Tiruppur South Police Station,
Tiruppur.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s. L. Mouli, Advocate, S.R.No.52389

RSK(CO)
EU(28/09/2016)

C.R.L.R.C.No.1019 of 2016



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