

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1644 of 2016

S.Prakash
S/o.L.Sohanraj

.. Petitioner

vs.

1.Pachamuthu @ Parivendhar

2.The State represented by
The Additional Deputy Commissioner of Police,
Central Crime Branch, Vepery,
Chennai - 600 007.
Crime No.143 of 2016

.. Respondents

Criminal Revision filed under sections 397 and 401 of Criminal Procedure Code against the order of learned XI Metropolitan Magistrate, Saidapet, Chennai, passed in Crl.M.P.No.2891 of 2016 on 21.11.2016.

For Petitioner : Mr.R.Krishnaswamy

For Respondents : Mr.M.Mohammed Riyaz,
Government Advocate [Crl.side][R2]

ORDER

This revision is preferred against the order of learned XI Metropolitan Magistrate, Saidapet, Chennai, passed in Crl.M.P.No.2891 of 2016 on 21.11.2016.

2. Informing that the petitioner has given a sum of Rs.50,00,000/- to one Madhan towards obtaining MBBS admission and that first respondent was arrested in connection with the case (Crime No.143 of 2016 on the file of second respondent) and while granted bail was directed to deposit a sum of Rs.75 crores, petitioner moved Crl.M.P.No.2891 of 2016 seeking interim custody of cash to the tune of Rs.50,00,000/-. Court below, under the impugned order, dismissed such petition. Hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side] for second respondent.

4. In dismissing the petition, the Court below has reasoned that neither has the investigating officer seized monies nor had first respondent deposited the same admitting his guilt. It is only towards compliance of one of the bail conditions, that money has been deposited.

5. Learned counsel for petitioner has referred to an order of a Division Bench of this Court passed in Crl.O.P.Nos.15381 to 15393 and 15629 of 2016 dated 01.12.2016 wherein it has been observed as follows:

“12. ... However, we find it appropriate to observe that it would be open to the petitioners to claim the amounts, said to have been paid by them for getting

admission in the various medical courses, in the S.R.M. Group of Educational Institutions, Chennai, by showing sufficient proof, as may be necessary, before the appropriate forum, at the appropriate stage, in the manner known to law.”

6. Section 451 Cr.P.C. reads as follows:

“451. Order for custody and disposal of property pending trial in certain cases. - When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation. - For the purposes of this section, “property” includes -

(a) property of any kind or document which is produced before the Court or which is in its custody.

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.”

7. By virtue of explanation (a) to section 451 Cr.P.C. money which has been deposited before Court and 'which is in its custody' might fall within the ambit of Section 451 Cr.P.C. However, it would hardly be

appropriate to direct interim custody thereof in the hands of an accuser when money has come into custody of Court pursuant to compliance with conditions of an order of bail and in circumstance where the person effecting compliance has not admitted to guilt. The extract of the order of the Division Bench herein above reproduced makes clear that petitioners therein may recover monies by producing adequate proof as may be necessary before the appropriate forum and importantly at the appropriate stage in a manner known to law. Directing payment of monies deposited by an accused in compliance with conditions of an order of bail to third parties who alleged having made payments to the accused would amount to presuming commission of offence by the accused. Under our constitutional scheme, it is innocence that is to be presumed.

The Criminal Revision Case shall stand dismissed.

सत्यमेव जयते

20.12.2016

Index: Yes/No

Internet: Yes

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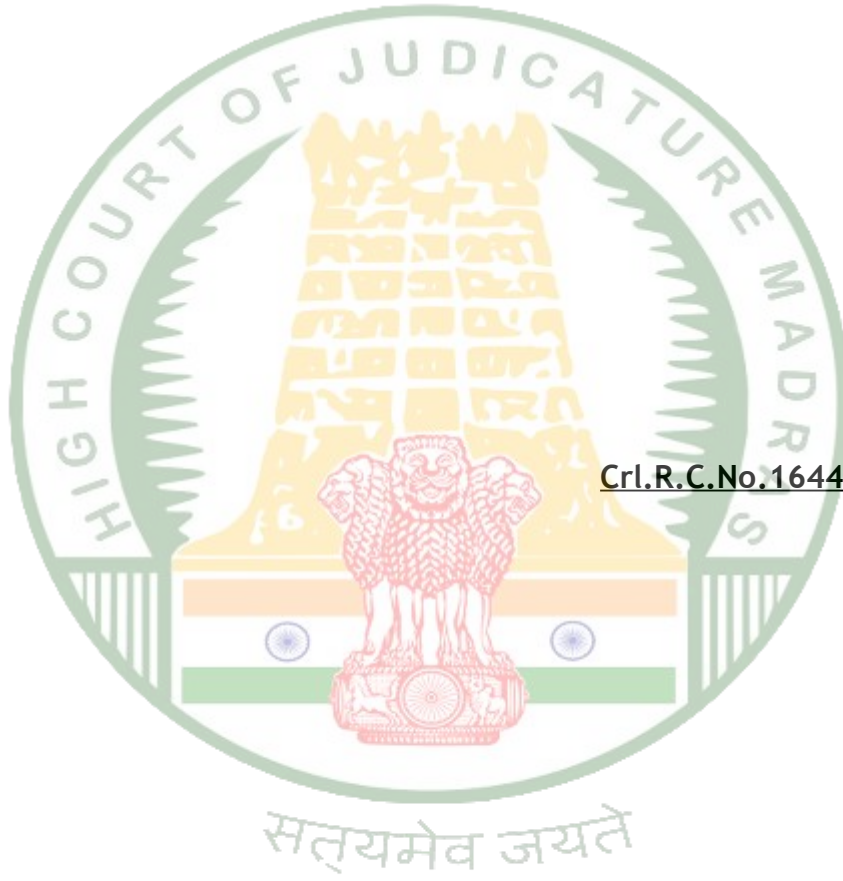
- 1.The XI Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Additional Deputy Commissioner of Police,
Central Crime Branch, Veperty,
Chennai - 600 007.
- 3.The Public Prosecutor,
High Court, Madras.



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C.T.SELVAM, J

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