

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

(Orders Reserved on : 21.09.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.890 of 2016

Malaisamy

... Petitioner

V6s.

1. R.Karthikeyan

2. The Inspector of Police,
B6 (Crime) Peelamedu Police Station.
Crime No.1478 of 2013.

... Respondents

Prayer: Criminal Revision Case filed under Section 401 of the Code of Criminal Procedure, praying to set aside the order passed in Pr.No.1068 of 2013 dated 18.05.2016 on the file of the Judicial Magistrate No.VI, Coimbatore.

For Petitioner : Mr.S.Ramesh

For R-1 : Mr.I.Abrar Md Abdullah

For R-2 : Mrs.M.F.Shabana,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order dated 18.05.2016 passed by the learned Judicial Magistrate No.VI, Coimbatore, in P.R.No.1068 of 2013.

2. In this case, the learned Judicial Magistrate No.VI, Coimbatore, by order dated 18.05.2016, directed the Inspector of Police, B-6 Peelamedu Crime police station, Coimbatore, to seize the property from the revision petitioner and to produce the same before the Court on 25.05.2016.

3. The learned counsel for the petitioner would mainly contend that the property in question was already handed over to the revision petitioner. It is further contended that learned Magistrate, before passing the order on 18.05.2016, ought to have followed the order passed by this Court in Crl.R.C.Nos.766 and 1197 of 2014. The learned counsel for

the petitioner also contended that the learned Magistrate has not given sufficient opportunity to the petitioner to prove his ownership over the machineries and passed an erroneous order to seize the property from the revision petitioner and hence, the said order of the trial Court has to be set aside and the Criminal Revision Case has to be allowed.

4. The learned counsel appearing for the first respondent and the learned Government Advocate (Crl.Side) appearing for the second respondent would contend that the learned Magistrate, after considering the entire facts and circumstances of the case, passed an appropriate order and there is no illegality or infirmity in the order passed by the trial Court and hence, the learned counsel prayed that the criminal revision case has to be dismissed.

5. In this case, the revision petitioner herein has filed a petition in C.M.P.No.7805 of 2013 under Section 451 of Cr.P.C. before the trial Court seeking interim custody of the machineries and the said petition was ordered on 13.11.2013. Thereafter, the first respondent herein has filed a petition in C.M.P.No.8325 of 2013 before the trial Court to seize the machineries from the revision petitioner. Since there was a dispute regarding the ownership of the machineries, the trial Court, has passed an order on 22.04.2014, directing the revision petitioner herein to return back the machineries. Aggrieved against the said order, the revision petitioner has preferred a criminal revision before this Court in Crl.R.C.No.766 of 2014 and the first respondent herein also has preferred a criminal revision in Crl.R.C.No.1197 of 2014. Both the Crl.R.C.Nos.766 and 1197 of 2014 were allowed by this Court on 09.06.2015 and the orders of the trial Court dated 13.11.2013 and 22.04.2014 were set aside. The paragraph Nos.1 and 5 of the order passed by this Court in Crl.R.C.Nos.766 and 1197 of 2014 read as follows:-

"These Criminal Revision Cases are filed against the orders passed in Crl.M.P.Nos.8325 and 7805 of 2013 by the learned Judicial Magistrate No.VI, Coimbatore, dated 22.04.2014 and 13.11.2013.

2 to 4.

5. In the result, these Criminal Revision Cases are allowed. The orders dated 22.04.2014 and 13.11.2013 passed in C.M.P.Nos.8325 and 7805 of 2013 on the file of the learned Judicial Magistrate No.VI, Coimbatore, are set aside and the matters are remitted back to the Judicial Magistrate No.VI, Coimbatore, to give a fresh notice for giving an opportunity of hearing to both parties and get a detailed report from the Investigation Officer as to from where the property was seized and thereafter, shall decide the matter afresh, on merits and in accordance with law, as expeditiously as possible, without being influenced by any of the

observations made in these revisions and to independently arrive at a conclusion. Consequently, connected Miscellaneous Petition is closed."

6. On a reading of the above said order, it is seen that this Court set aside the earlier orders passed by the learned Judicial Magistrate No.VI, Coimbatore, and directed the learned Magistrate to give a fresh notice to both the revision petitioner and the first respondent herein and decide the matter afresh. Since both the petitioner and the first respondent herein are not entitled to interim custody of the machineries, the learned Magistrate issued a direction to the second respondent police to seize the property from the custody of the revision petitioner and the said direction was issued by the learned Magistrate in pursuance of the order passed by this Court in Crl.R.C.Nos.766 and 1197 of 2014.

7. In view of the above facts and circumstances of the case, this Court is of the considered view that there is no infirmity or illegality in the order passed by the learned Magistrate in issuing direction to the second respondent police to seize the property from the custody of the revision petitioner. This Court finds no reason to interfere with the order passed by the learned Magistrate which does not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed.

8. In the result, this Criminal Revision Case is dismissed with a direction to the revision petitioner to hand over the machineries to the learned Magistrate within a period of one week from the date of receipt of a copy of this order.

Sd/-
Asst.Registrar (CS II)

/true copy/

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Sub Asst. Registrar

Jrl

To

1. The Judicial Magistrate No.VI,
Coimbatore.

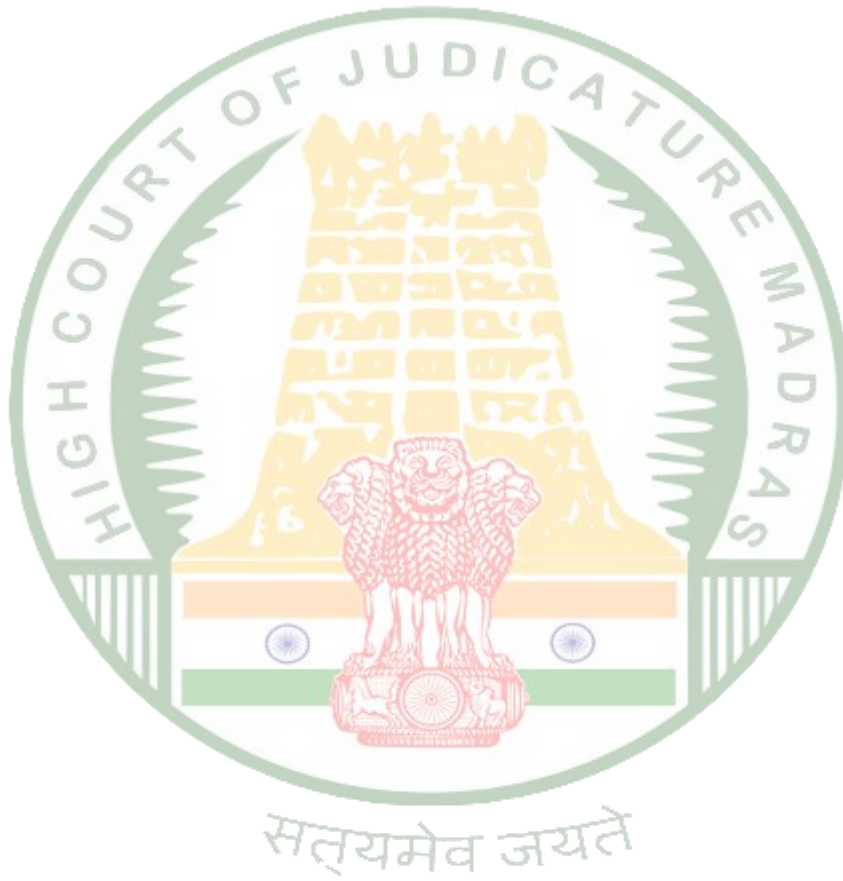
2. do thro the Chief Judicial Magistrate
Coimbatore

3. The Inspector of Police,
B6 (Crime) Peelamedu Police Station,
Coimbatore.

4. The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.890 of 2016

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