

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. OP No.19427 of 2016

Mukesh Jain

..... Petitioner

Vs

State by Sub-Inspector of Police,
R-6, Kumaran Nagar Police Station,
Chennai
(Crime No.1071/16)

..... Respondent

Prayer:- Criminal Original Petition filed under Section 439(1) b Cr.P.C., to modify the condition imposed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai by order dated 11.07.2016 in Crl.M.P.No.2718 of 2015 to produce the case property as and when directed.

For Petitioner : Mr.P.Ramesh Kumar

For Respondent : Mr.C.Emalias,
Addl. Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to modify the condition imposed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai by order dated 11.07.2016 in Crl. M.P.No.2718 of 2015 to produce the case property.

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

3. On the complaint lodged by the petitioner, the respondent police registered a case in Cr.No.1071/2016 on 24.06.2016 for offences u/s 457 and 380 IPC. It is the case of the petitioner that he runs an automobile shop and that on 22.06.2016, he had kept cash of Rs.2,98,000/- in his shop and after closing the shop, he went home. On the next day, when he came to the shop, he found that the cash was missing and hence, the complaint.

4. After registration of the FIR, the respondent police arrested the accused, who turned out to be an employee of the petitioner and the cash was recovered intact and out of

Rs.2,98,000/-, Rs.2,95,400/- was recovered, for which the police definitely requires to be lauded. The recovered cash has been deposited with the learned XXIII Metropolitan Magistrate, Saidapet. While so, the petitioner filed Crl.M.P.No.2718/2015 in Crime No.1071 of 2016 u/s 451 Cr.P.C. for return of the cash and the learned Magistrate by order dated 11.07.2016, has ordered return of cash on condition that the petitioner should preserve the cash in the as is where is condition and must produce the same as and when called for by the Court.

5. In the considered opinion of this Court, a victim of crime cannot be subjected to such harassment. In fact, unless it is a counterfeit currency note, cash cannot be stored and stacked and it should be put on circulation. Therefore, the said condition imposed by the Magistrate in the order dated 11.07.2016 that the petitioner should keep the cash intact and produce the same before the trial court stands deleted. The factum of the cash having been returned to the petitioner can be proved by evidence of the petitioner and by marking of the order passed by the trial Court and by this Court and it is not necessary to produce the corpus delicti at the time of trial.

This petition is ordered accordingly.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsi2/gms

To

1.The Sub-Inspector of Police,
R-6, Kumaran Nagar Police Station,
Chennai .

2. XXIII Metropolitan Magistrate,
Saidapet, Chennai .

3. Do Thro'The Chief Metropolitan Magistrate,
Egmore, Chennai.

4. The Public Prosecutor
High Court, Madras.

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