



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC (MD) No.457 of 2016

WEB COPY

P.Canisius

... Revision Petitioner/
Defacto Complainant

-vs-

The State of Tamil Nadu,
Rep. by its Inspector of Police,
Railway Police Station,
Thoothukudi.
(Crime No.113 of 2015)

... Respondent/Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., praying to call for the records pertaining to the Order dated 10.05.2016 in un numbered CrI.M.P.SR.No.3706 of 2016 on the file of the learned Judicial Magistrate No.1, Thoothukudi, set aside the same.

For Petitioner: Mr.P.Pethu Rajesh

For Respondent: Mrs.S.Prabha
Government Advocate (Criminal side)

O R D E R

Aggrieved by the return of his property return petition, the defacto complainant directed this revision.

2.In a moving train, the defacto complainant has been robbed of his valuables. Gold valuables has been seized by the investigation officer. It has to be produced before the learned Judicial Magistrate No.1, Thoothukudi. The revision petitioner filed petition to return the said property to himself. It was returned by the learned Magistrate on the ground that the case property is not produced before the Court and also certain factual matrix have to be stated.

3.The approach of the Magistrate is not correct. Under Section 457 Cr.P.C., if a case property is seized by the Police and if it is not produced before the Court, the Magistrate can direct the Police to produce the property and pass property order directing the police to return it based on the facts and circumstances of each case. The Magistrate should have entertained the petition, enquired the revision petitioner and also the police and if there is any rival claim, he has to enquire such claimants and pass



orders according to law. But, without numbering the property return petition, the return of it is not correct.

4. In the circumstances, ordered as under:

- (1) Revision Petition is allowed.
- (2) The endorsement dated 10.05.2016, made by the learned Judicial Magistrate No.1, Thoothukudi in unnumbered CrI.M.P.SR.No.3706 of 2016 is set aside.
- (3) The learned Magistrate will receive the said petition and number it, enquire it and pass orders according to law.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To:

1. The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.
(With the direction to return the original petition to the petitioner) .
2. The Judicial Magistrate No.1,
Thoothukudi.
3. The Government Advocate (Criminal side),
Madurai Bench of Madras High Court, Madurai.
4. The Inspector of Police,
Railway Police Station,
Thoothukudi District.

+1 CC to M/s.P.PETHU RAJESH, Advocate, SR No.33477

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sj
SH/GSV-PM:06.07.2016:2P/6C