



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON 17.10.2016
ORDERS PRONOUNCED ON 26.10.2016

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED
Crl.RC(MD)No.592 of 2016

Natarajan : Petitioner

Vs.

1.The Sub Inspector of Police,
Melattur Police Station,
Thanjavur District.
(Crime No.31/16)

2.The Thasildar,
Election Officer,
Papanasam Taluk,
Thanjavur District.

3.The District Collector,
Election Officer,
Thanjavur District.

: Respondent

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records pertaining to the order passed on 28.07.2016 in unnumbered Cr.M.P.No..... of 2016, on the file of the Judicial Magistrate No.3, Thanjavur and set aside the same.

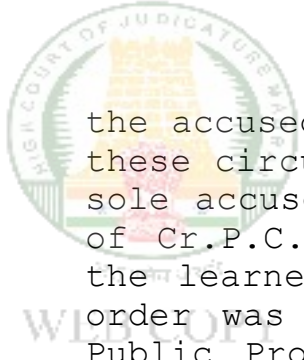
For Petitioner :Mr.G.Karnan
For Respondents :Mr.P.Kandasamy
Government Advocate(Crl. Side)

O R D E R

This Revision has been filed praying to set aside the order passed in an unnumbered Cr.M.P.No..... of 2016, on 28.07.2016, on the file of the learned Judicial Magistrate No.3, Thanjavur.

2. The facts leading to filing of the present Criminal Revision Case, can be briefly stated as follows:-

On receipt of information from the Election Control Room, Thanjavur District stating that amount was kept in the house of the accused for the purpose of disbursement towards votes, the house of the accused was searched and a sum of Rs.2,83,000/- was seized from a Steel Bureau. FIR was registered immediately on 15.05.2016 in Crime No.31 of 2016, on the basis of the complaint of the complainant, who is the Block Development Officer (Village Panchayat) Papanasam, Thanjavur District, against the accused. A receipt for seizure of Rs.2,83,000/- was also given to



the accused. The said FIR is still pending for investigation. In these circumstances, the petitioner herein, who is arrayed as the sole accused in this case, has filed a petition under Section 457 of Cr.P.C., for return of the above said seizure amount, before the learned Judicial Magistrate No.3, Thanjavur and the impugned order was passed after hearing the petitioner and the Assistant Public Prosecutor, dismissing the said petition stating that no documents were filed to show the ownership or the legal custody of the seized amount and also proof of income by the petitioner/accused. The accused / petitioner challenged the said dismissal order in this Revision.

3. I have heard the submissions made by the learned counsel appearing for the Revision Petitioner and the learned Government Advocate (crl.side) for the State and also perused the materials placed before this Court.

4. On perusal of the impugned order would disclose that the seized amount was not produced by the Police before the trial Court. The petitioner has also filed several documents including an agreement of sale, dated 13.07.2016 of settlement property owned by the son of the petitioner showing the receipt of Rs.7,05,000/-, as advance given on 13.05.2016. The said documents were not considered by the trial Court. No evidence was also recorded by the trial Court to disbelieve those documents. It is admitted that a sum of Rs.2,83,000/- was seized from the house of the petitioner, who is the accused in this case. The lower Court is bound to decide the ownership or the legal custody of the said amount, as claimed by the petitioner herein, on the basis of the documents produced by the petitioner before the concerned Court. The authenticity or the genuineness of the documents produced by the petitioner in respect of his claim is to be decided only on the basis of the evidence adduced by the petitioner herein.

5. Considering the above facts and circumstances of the case and also the claim of the petitioner herein, this Court is inclined to allow this revision. Accordingly, this Criminal Revision Case is allowed and the order passed in an unnumbered Cr.M.P.No..... of 2016, dated 28.07.2016 by the learned Judicial Magistrate No.3, Thanjavur, is set aside. Further, the trial Court is directed to permit the petitioner to lead evidence in respect of his claim and decide the issue afresh, on merits and in accordance with law, by taking into account the documents produced by the petitioner.

Sd/
Assistant Registrar (CS-I)

/True Copy/



To

1.The Judicial Magistrate No.3,
Thanjavur.

2.The Sub Inspector of Police,
Melattur Police Station,
Thanjavur District.
(Crime No.31/16)

3.The Thasildar,
Election Officer,
Papanasam Taluk,
Thanjavur District.

4.The District Collector,
Election Officer,
Thanjavur District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.G.Karnan, Advocate, SR.No. 63693

Order made in
Cr1.RC(MD)No.592 of 2016
Dated:-
26.10.2016

MPK
AM/SS3/07.11.2016/3P/7C