

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

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THE HON'BLE MR. JUSTICE **R.SURESH KUMAR**

Crl.R.C.No.1074 of 2017

M.Sivakumar

...Petitioner

Vs.

The State represented by
The Inspector of Police,
CBCID, Video Piracy Cell,
Unit-2, Chennai.
(Crime No.94 of 2017)

...Respondent

Prayer:- Petition filed under Section 397 & 401 of the Criminal Procedure Code, 1973 praying to set aside the order of dismissal passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai made in Crl.M.P.No.837 of 2017 by its order dated 15.06.2017.

For Petitioner : Mr.T.Vijayaraghavan

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

This revision case has been filed against the part of the order dated 15.06.2017, passed by the learned XI Metropolitan Magistrate, Chennai in Crl.M.P.No.837 of 2017 in CBCID VPC Unit 2 Crime No.94 of

2017.

2. It is the case of the petitioner before the trial Court that certain goods, such as Printing machines, Two wheeler, cell phones, Air conditioner, have been seized by the respondent-police in the case referred above for the alleged offence punishable under Sections 51, 52(A), 63(a), 68-A of Copyright Act, 1957.

3. The petitioner had moved an application under Section 451 of Cr.P.C. for interim custody of the said articles. The trial Court, after having considered the claim made by the petitioner as well as the objections raised by the respondent-police, has ultimately passed the impugned order, whereby, out of seven items, the trial Court has released the goods such as Offset machine, cutting machine, printing plate and Air Conditioner on some conditions. Since the petitioner himself had not pressed the two items, which are two wheelers, it is recorded by the trial Court as "Not Pressed".

4. However, insofar as the five numbers of mobile phones which are listed in Sl.No. 1 to 5 in the list of articles sought for interim custody are concerned, the trial Court has rejected the plea of the

petitioner. Therefore against such rejection of interim custody of five numbers of mobile phones which are listed in Sl.No.1 to 5 in the list of articles sought for from the trial Court, the present revision case has been filed.

5. I have heard Mr.T.Vijayaraghavan, learned counsel appearing for the petitioner as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor for the respondent.

6. Since the two items i.e, two wheelers have not been pressed by the petitioner, it has been recorded accordingly by the trial Court and the trial Court itself has released the other items such as Offset machine, cutting machine, printing plates, Air Conditioner for the interim custody to the petitioner. In respect of five number of mobile phones which are the subject matter in this criminal revision case, there is no specific reason adduced by the trail Court for rejection of interim custody of those mobile phones.

7. In this regard, the learned counsel appearing for the petitioner would submit that these mobile phones are Company phones

and these phones are given to the workers/staff of the petitioner for day-to-day work and keeping this mobile phones under the custody of the respondent police would no way require for any further investigation. More over, if these mobile phones are given to the custody of the petitioner, it would not cause any prejudice to the investigation of the respondent police. The learned counsel for the petitioner would also submit that whatever the condition imposes by this Court for release of mobile phones by way of interim custody would be abide by the petitioner.

8. Considering these aspects, I am inclined to entertain this petition and accordingly there shall be an order of direction, directing the trial Court to release the five numbers of mobile phones, which are listed in Sl.No.1 to 5 in the list of articles sought for interim custody before the trial Court by the petitioner, to the petitioner on the following conditions :-

(i) the petitioner shall execute a bond for a sum of Rs. 20,000/- (Rupees twenty thousand only) to the satisfaction of the learned XI Metropolitan Magistrate, Saidapet, Chennai within a period of two weeks from the date of the receipt of a copy of this Order

(ii) the petitioner shall not tamper or transfer the said mobile phones without the order of the trial Court and on further condition that

(ii) the petitioner shall produce the said mobile phones as and when required for the purpose of further investigation of the case by the respondent police.

9. With these directions, the present criminal revision case is ordered.

24.08.2017

Speaking/non speaking order.
Index :Yes/No

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To

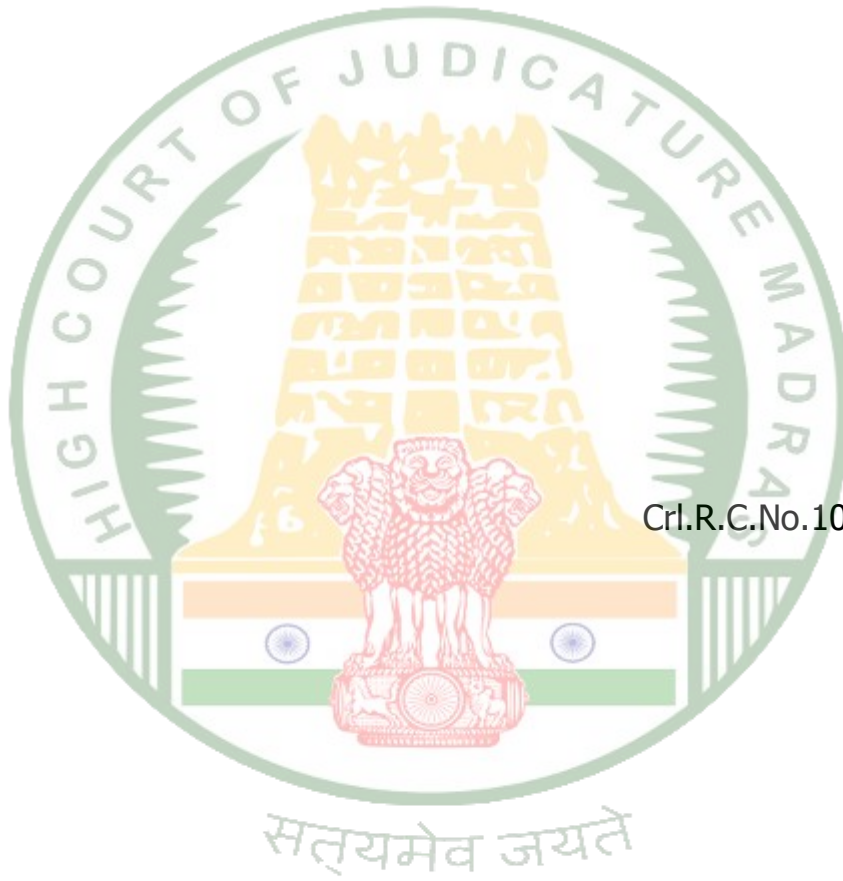
1. The Presiding Officer,
The XI Metropolitan Magistrate,
Saidapet, Chennai.

2. The Inspector of Police,
CBCID, Video Piracy Cell,
Unit-2, Chennai.

3. The Public Prosecutor,
High Court, Madras.

R.SURESH KUMAR,J.

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