

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.4468 of 2017

S.Mohankumar

..Petitioner/LW2

Vs

State by Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 40.

..Respondent/Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the return endorsement made by the learned V Metropolitan Magistrate (Allikulam) Chennai- 600 003 and direct the learned V Metropolitan Magistrate (Allikulam) Chennai-600 003 to number the petition filed under Section 451 Cr.P.C.

For Petitioner : Mr.Hassan Mohammed Jinnah
For Respondent : Mr.C.Emalias, APP

ORDER

This Criminal Original Petition has been filed to set aside the endorsement made by the learned V Metropolitan Magistrate (Allikulam) Chennai- 600 003 and direct the learned Magistrate concerned to number the petition filed under Section 451 Cr.P.C.

2. The case of the petitioner is that on the basis of the complaint lodged by one Kannan, who is working as collection agent under the petitioner herein, a case in Crime No.899 of 2009 was registered by the respondent police against three unknown persons for the offence punishable under Section 392 IPC. During the course of investigation, the mediator of the petitioner and her associates were identified as accused and the charge was altered into one for the offence under Section 392 r/w 120(b) IPC. Further, the theft amount of Rs.14,50,000/- was recovered from them and was deposited into the bank. On coming to know about the same, the petitioner filed a petition in CMP.No.4706 of 2009 for return of the amount of Rs.14,50,000/- before the lower court. By order dated 05.03.2010, the said petition was dismissed by the learned V Metropolitan Magistrate, Egmore, Chennai on the ground that as the husband of the first accused viz., Thomas Selvaraj has also filed a similar petition, the truth will come out only after filing the charge sheet and

statement of witnesses. Thereafter, on completion of investigation, charge sheet was filed for the offences under Sections 392 r/w 394, 397 r/w 120 (b) and 109 IPC against five accused and the same was taken on file as PRC No.43 of 2015, which is pending trial. In such circumstances, the petitioner filed another petition seeking return of the amount to him. By endorsement dated 21.02.2017, the said petition was returned by stating that the earlier petition filed by the petitioner in CrI.MP No.1054/2013, was dismissed by a detailed order dated 06.07.2013, on the ground that the ownership of the case property will be determined only after full trial. Aggrieved over the said return, the present petition came to be filed.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor, who took notice for the respondent and perused the materials placed before this Court.

4. Considering the facts and circumstances of the case and also taking note of the fact that the case is at trial stage, this Court directs the learned V Metropolitan Magistrate, Chennai-3 to number the petition filed under Section 451 Cr.P.C, if it is otherwise in order and take up the same for hearing and pass appropriate orders on merits and in accordance with law. Such exercise shall be completed within a period of three weeks from the date of representing the petition by the petitioner.

5. This Criminal Original Petition is disposed of accordingly.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1.The V Metropolitan Magistrate,
Allikulam, Chennai-3.

2.The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 40.

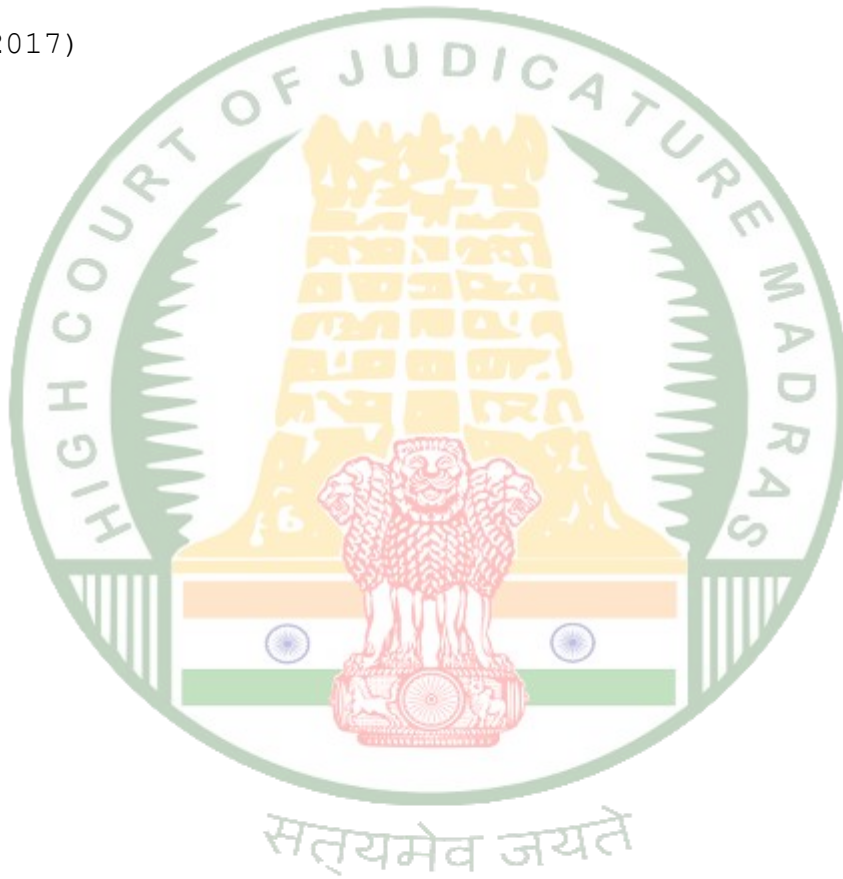
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3.The Public Prosecutor,
High Court, Madras - 104.

+lcc to Mr. Damodaran, Advocate in Sr. 14773

Cr1.O.P.No.4468 of 2017

LRS (CO)
Vr (22/03/2017)



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