

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.377 of 2017

Manoj Kumar

.. Petitioner

Vs

State rep. By
The Inspector of Police,
Anit Vice Squad,
Chindadripet, Chennai.

.. Respondent

Prayer:- Criminal Revision filed under Section 397 r/w. 401 of Cr.P.C., praying to set aside the order of dismissal of the petition filed under section 451 Cr.PC. in CrI.M.P.No.3444 of 2016 dated 12.01.2017 passed by the learned IV M.M.Saidapet, Chennai-15.

For Petitioner : Mr.J.William Shakesphere

For Respondent : Mr.R.Ravichandran,
Gov. Adv. (Crl. Side)

ORDER

Challenging the order, dismissing the petitioner's application filed under Section 451 Cr.P.C., for return of money, the present revision has been filed.

2. The petitioner is an accused in Crime No.73 of 2016 on the file of the respondent police, registered for the offences under Sections 3(2)a, 4(1). 5(1)(a), 6(1)(a), 7(1)(a) of ITP.

3. The allegation against the petitioner is that he has taken a building in door No.2/B, Dhandeeswaran main Road, Velachery, Chennai, on a lease for running a beauty parlour. But, the petitioner was actually running prostitution in the above building. Hence, a crime was registered against the petitioner for the above mentioned offence and he was also arrested and subsequently released on bail. During the

investigation, one of the landlords of the building, by name Vincent, who leased out to the petitioner, approached the respondent police and informed that at the time of taking the premises for lease, the petitioner has paid a sum of Rs.5,00,000/- as advance and after deducting the arrears of rent, a remaining sum of Rs.4,20,000/- was available with him and he has also handed over the same to the respondent police and the respondent police also recovered the said amount and produced the same before the Court and the money was deposited into a nationalized bank on the credit of the above crime number. Thereafter, the petitioner had filed an application seeking return of money. But the Court below dismissed the application on the ground that if the amount is returned to the petitioner, there is a likelihood of the petitioner indulging in a similar crime. Now, challenging the above order, the present revision has been filed.

4. Heard Mr J.William Shakesphere, learned counsel appearing for the petitioner and Mr.R.Ravichandran, learned Government Advocate (Crl. Side) appearing for the respondent and perused the material available on records.

5. Admittedly, the money was not seized from the petitioner and the money is also not proceeds of the crime, which is only an advance amount paid by the petitioner to the landlord at the time of taking the premises on lease. Hence, the money has nothing to do with the crime and it cannot be seized by the respondent police. In the above circumstances, there is no purpose in keeping the money in the Court. But the Court below without considering the above material in proper perspective, dismissed the application.

6. In the above circumstances, the Criminal Revision is allowed and the order dated 12.01.2017 passed by the IV Metropolitan Magistrate, Saidapet, Chennai in C.M.P.No.3444 of 2016, is set aside and the Court below is directed to return the money to the petitioner on condition that the petitioner shall furnish a personal bond for the above said sum to the satisfaction of the learned Magistrate and on further condition that he shall remit the amount into the Court below, if the Court below directs him to do so in future.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mrp

To

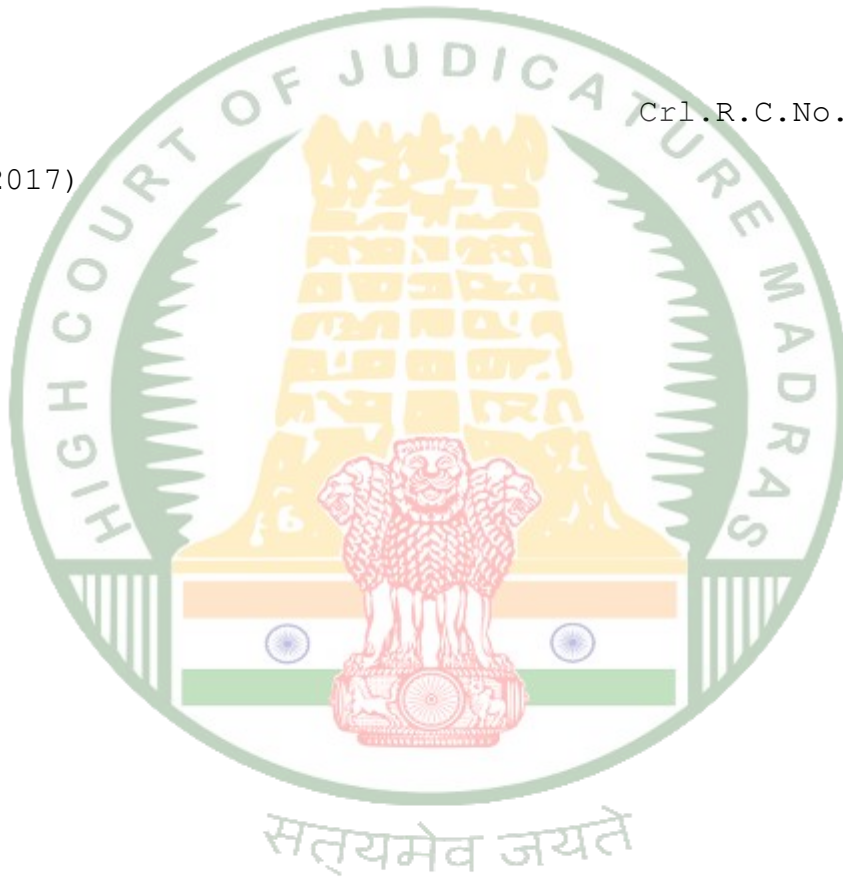
1. The IV Metropolitan Magistrate,
Saidapet, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.J.William Shakesphere, Advocate sr 42779.

Cr1.R.C.No.377 of 2017

SP(30/11/2017)



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