

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CRL.R.C.No.397 of 2017

Kesavan

Petitioner/Accused

Vs.

State rep. by
The Station House Officer,
Odiyan Salai Police Station,
Puducherry.

... Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure Code to set aside the order dated 20.02.2017 passed by the learned Chief Judicial Magistrate, Puducherry in Cr.M.P.No.499 of 2017 in Cr.No.6 of 2017 in so far as that part of the said order declining to return the cash and cell phone belonging to the petitioner.

For Petitioner : Mr.R.Thiagarajan

For Respondent : Mr.M.R.Thengavel
Public Prosecutor (P)

O R D E R

Dismissing the petition filed seeking to return the mobile phone and the cash of Rs.15,000/- by the learned Chief Judicial Magistrate, Puducherry in Crl.M.P.No.499 of 2017, this Criminal Revision has been preferred by the petitioner.

2. It is the case of the prosecution that the petitioner was involved in selling the lotteries which was prohibited in the State of Puducherry. Hence, respondent police filed a case under Sections 420, 468 of IPC and Section 5 r/w 7 (3) of the Lotteries Act against the petitioner. At the time of arresting the petitioner the respondent police also seized the Samsung Cell Phone and Honda Activa Motor Cycle vehicle bearing Registration No.PY-01-CF-4242 and a cash of Rs.15,000/- from the petitioner. After coming out on bail, the petitioner filed a petition under Section 451 of Cr.P.C., seeking to return his belongings. The Court below after considering the materials

placed before it, had passed the order directing to return only the Honda Activa Motor cycle and dismissed the petition in respect of the Samsung Mobile phone and cash is concerned. The said dismissal order is under challenge in this Criminal Revision Petition.

3. Learned Public Prosecutor appearing for the respondent would submit that the investigation is at the preliminary stage and the mobile phone is required for collecting the required evidences and in so far as the cash is concerned, the petitioner has derived it only by selling the lotteries and hence, the same cannot be returned to the petitioner. Hence, the Court below has rightly rejected the claim of the petitioner.

4. I have heard Mr.R.Thiagarajan, learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the Puducherry State.

5. Considering the submissions made by the learned Public Prosecutor that the investigation is at preliminary stage, this Court is of the view that it may not be appropriate at this point of time to return the mobile phone as well as the cash seized from the petitioner. Hence, this Criminal Revision Case is dismissed. However, since the case has been registered in January 2017, the respondent police is directed to complete the investigation and file a final report within a period of two months from the date of receipt of a copy this order. It is needless to mention that the petitioner is having liberty to renew his petition seeking to return the articles after filing of final report before the Court below.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

smi

To

1.The Station House Officer,
Odian Salai Police Station,
Puducherry.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R. Thiagarajan, Advocate Sr. 17378

+1cc to the Government Pleader Sr. 17924

Cr1.R.C.No.397 of 2017

NM(CO)
VR(06/04/2017)



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