

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.460 of 2017

Ayyasamy

.. Petitioner

Vs

State rep. By

The Inspector of Police,
R-8, Vadapalani Police Station,
Vadapalani, Chennai -600 024.
(Crime No.1962 of 2016)

... Respondent

Prayer:- Criminal Revision filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.72 of 2017 dated 02.02.2017.

For Petitioner : Mr.M.Prabakar

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

ORDER

This Criminal Revision has been filed against the order of dismissal passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in C.M.P.No.72 of 2017, with regard to return of cash of Rs.13,13,480/-, which was seized from by the petitioner, filed by the petitioner under Section 451 Cr.P.C.

2. The petitioner is A1, in Crime No.1962 of 2016 on the file of the respondent police, for the offences under Sections 24(1) of Cigarette and other Tobacco Products Act, 203 r/w. 328 IPC.

3. The allegation levelled against the petitioner is that A2 in this case was found in possession of band tobacco products, namely, Gutka and Hans. He was arrested by the respondent police and on such arrest, he identified the petitioner/A1 stating that he is only a retailer and the petitioner/A1 is a whole seller, from his shop, he purchased the banned tobacco products. Thereafter, the petitioner/A1 was arrested and based on his confession, the respondent police had recovered 42 kgs of banned tobacco products, a cellphone and cash of Rs.13,13,480/- from him.

4. Thereafter, the petitioner had filed an application before the court below seeking return of the cellphone and the cash of Rs.13,13,480/- on the ground that the cash of Rs.13,13,480/- seized from him was nothing to do with the selling of tobacco products. But the court below allowed the claim with regard to the return of cellphone and dismissed the claim with regard to return of cash of Rs.13,13,480/- holding that since investigation is pending, the amount cannot be refunded to the petitioner. Challenging the same, the present revision has been filed.

5. Considering the fact that the petitioner is a whole seller and the amount was seized from his shop and no useful purpose would be served by keeping the money in the court. Hence, I am inclined to allow the revision.

6. In the above circumstances, the Criminal Revision is allowed and the order of the XVII Metropolitan Magistrate, Saidapet, Chennai in C.M.P.No.72 of 2017 dated 02.02.2017, is set aside and the court below is directed to return the cash seized from the petitioner on condition that the petitioner shall furnish the bank guarantee for the equal sum, which was seized from the petitioner. The petitioner is directed to produce the bank guarantee for the said amount before the court below within a period of 10 days from the date of receipt of a copy of this order and on production of such bank guarantee, the court below is directed to return the cash, seized from the petitioner.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The XVII Metropolitan Magistrate,
Saidapet, Chennai.

2. The Inspector of Police,
R-8, Vadapalani Police Station,
Vadapalani,
Chennai -600 024.
(Crime No.1962 of 2016)

3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr. M. Prabhakar, Advocate SR.16669

CrI.R.C.No.460 of 2017

SKS (CO)

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EU 6.4.2017