



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Cr1.R.C. (MD)No.165 of 2017

A.Raja Mohammed

... Petitioner

Vs.

1. The Sub-Inspector of Police,
Karaikudi North Police Station,
Karaikudi.
(Crime No.290 of 2016)

2. The Special Thasildar,]
Town Settlement Scheme,
Karaikudi,
Sivagangai District.

... Respondents

R2 impleaded as per order dated 26.10.2017 of this Court made in Cr1.M.P.(MD)No.6192 of 2017.

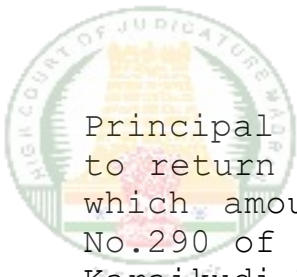
PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the entire records pertaining to the order passed by the learned Principal District Munsif-Cum-Judicial Magistrate Court, Karaikudi in Cr.M.P.No.5939 of 2016 vide its order dated 02.01.2017 and to set aside the same and consequently direct the above said learned Principal District Munsif-Cum-Judicial Magistrate Court, Karaikudi to return the cash property namely Rs.2,72,000/- to the petitioner which amount is involved in connection with the case in Crime No.290 of 2016 pending on the file of the Sub-Inspector of Police, Karaikudi North Police Station, Karaikudi.

For Petitioner : Mr.AL.Kannan

For Respondent : Mr.T.Mohan,
Additional Public Prosecutor

ORDER

This Criminal Revision Case is filed to call for the entire records pertaining to the order passed by the learned Principal District Munsif cum Judicial Magistrate Court, Karaikudi in Cr1.M.P.No.5939 of 2016 vide its order dated 02.01.2017 and to set aside the same and consequently direct the above said learned



Principal District Munsif-Cum-Judicial Magistrate Court, Karaikudi to return the cash property namely Rs.2,72,000/- to the petitioner which amount is involved in connection with the case in Crime No.290 of 2016 pending on the file of the Sub Inspector of Police, Karaikudi North Police Station, Karaikudi.

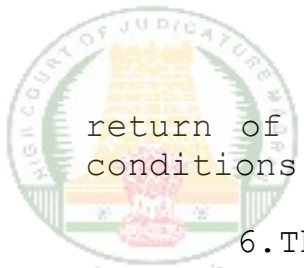
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2.The case of the prosecution is that the case in Crime No.290 of 2016 dated 11.05.2016 registered by the respondent Police for the offence punishable under Sections 171(e) & 188 IPC against one named accused and the name of the petitioner is not found in the FIR. As per the FIR the allegations is that during election at Karaikudi Constituency, the Flying Squad have searched the office belonging to AIADMK and seized 2 two wheelers and also a sum of Rs.1 lakh from a vehicle bearing registration No.TN 63 U 2858 belonging to the named accused and also a sum of Rs.2.72 lakhs was seized from the another vehicle bearing registration No.TN 63 AX 9263 belonging to the petitioner herein and the seized amounts were deposited into the Treasury by the de facto complainant himself and the vehicles were remanded to the concerned Judicial Magistrate.

3.The petitioner herein has filed a petition in Crl.M.P.No.2920 of 2016 for return of the vehicle bearing registration No.TN 63 AX 9263, which was remanded in P.R.No.99 and the same was ordered by the learned Judicial Magistrate, Karaikudi for return of the said vehicle as interim custody by imposing certain conditions. The petitioner herein has also filed a petition in Crl.M.P.No.5939 of 2016 for return of the amount of Rs.2.72 lakhs, which was seized by the Thasildar and the same was deposited in Sub-Treasury, Karaikudi. However, by order dated 02.01.2017, the learned Judicial Magistrate dismissed the said application. Aggrieved by the said order of dismissal, the petitioner has filed the present Criminal Revision Case.

4.The learned counsel for the petitioner submitted that the reasons given by the learned Judicial Magistrate for dismissing the application for return of money is not in accordance with law and it is not in dispute that the cash of Rs.2.72 lakhs is belonging to the petitioner and he has produced relevant documents, showing the fact that the said amount is a loan amount and the same was borrowed from the Karaikudi Town Cooperative Bank for utilizing the same for the marriage of his daughter-in-law and hence, the learned Judicial Magistrate has dismissed the petition, without following the dictum laid down by the Hon'ble Apex Court vide judgment reported in **2002 (10) SCC 283**.

5.The learned counsel for the revision petitioner also relied on an unreported decision of this Court in Crl.R.C.(MD) No.638 of 2016 between Arunachalam and The State Rep. by the Inspector of Police, Panangudi Police Station, Tirunelveli in Crime No.213 of 2016 vide order dated 29.09.2016 ordering for



return of the amount seized to the claimants on imposing certain conditions.

6.The learned Additional Public Prosecutor appearing for the respondent Police would submit his objection orally that the petitioner is not entitled to get the amount as the same is said to be disbursed to voters in that constituency and he is entitled for the said amount only after completion of the trial of the said case. The 2nd respondent is also added as a party to the proceedings since the seized amount was deposited by the 2nd respondent before the Treasury. He would further submit that investigation is still pending.

7.This matter is taken up for final hearing in the admission stage itself with the consent of both sides.

8.Perused the materials on record. Heard and considered the rival submissions made by either parties.

9.Admittedly, the amount of Rs.2.72 lakhs was seized from the vehicle bearing registration No.TN-63 AX 9263, which was parked before the AIADMK political office. The said vehicle was also returned to the petitioner as interim custody based on his application by filing with necessary documents of the said vehicle before the Court below. The petitioner has also filed his bank pass book showing the fact that on 11.05.2016, a sum of Rs.2.72 lakhs was deposited by transfer to his account. The said amount was withdrawn from the said Bank by pledging the jewels of the petitioner for the purpose of his daughter-in-law's marriage and it was seized by the Flying Squad of Election Commission at Karaikudi Constituency by stating that the said amount was kept only for the purpose of distributing to the voters by the concerned political party. It is also contended by the learned Additional Public Prosecutor appearing for the respondent that the incriminated seized amount should not be handed over to the petitioner at this stage and the purpose of keeping of the said amount at the time of seizure, has to be proved during the course of trial and the amount was not in the hands of the respondent Police or in the hands of the 2nd respondent herein, but the same was deposited into Treasury, Karaikudi and hence, it is under safe custody. It is further contended that the reported decision in **2002(10) SCC 283** and also unreported judgment of this Court in Crl.R.C.(MD)No.638 of 2016 relied on by the petitioner is not applicable to the facts on hand. The incriminating amount should not be handed over to the petitioner at this stage since investigation is still pending and the petitioner is also arrayed as accused in this case.

<https://hcservices.ecourts.gov.in/Services> Considering the facts and circumstances of the cases and also the nature of the amount seized from the vehicle owned by the petitioner herein and also the purpose of keeping the said amount



as stated by the prosecution, this Court is not inclined to interfere with the order dated 02.01.2017 passed by the learned Judicial Magistrate, Karaikudi in CrI.M.P.No.5939 of 2016 in Crime No.290 of 2016.

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11. In the result, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Karaikudi.
2. Do Thro' Chief Judicial Magistrate,
Sivagangai District.
3. The Special Thasildar,]
Town Settlement Scheme,
Karaikudi,
Sivagangai District.
4. The Sub-Inspector of Police,
Karaikudi North Police Station,
Karaikudi.
(Crime No.290 of 2016)
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Nbj

AE/SV MMS/SAR4/18.12.2017/4P/6C

CrI.R.C. (MD) No.165 of 2017
17.11.2017