

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.489 of 2018

M.Arunkumar

...Petitioner

..Vs..

State represented by
Inspector of Police,
CCB, Salem City,
Cr.No.2 of 2019

...Respondent

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed dated 03.03.2018 by the Judicial Magistrate, No.5 at Salem in C.M.P.No.715 of 2018 on Cr.No.2 of 2018 on the file of the respondent police and order the return of 120kgs. of silver ingots seized in Crime No.2 of 2018 to the petitioner pending investigation and trial of the said crime.

For Petitioner : Mr.S.Kalyanaraman

For Respondent : Mr.B.Arulmozhimaran
Govt.Advocate (Crl.side)

O R D E R

Heard both sides.

2. The petitioner who is the de-facto-complainant filed C.M.P.No715 of 2018 in Crime No.2 of 2018 before the learned Judicial Magistrate No.5, Salem for return of stolen properties that belong to him.

3. According to the learned Govt. Advocate (Crl.side), 5 complaints have been received by the 5 persons. As against the complaint with respect to the properties, portion of the properties has been recovered. However, one more accused is still absconding and some more properties has to be recovered from him.

4. The learned Govt. Advocate (Crl. Side) would contend that the petitioner has filed necessary documents viz., income tax and invoice of purchase in respect of the silver articles

which are alleged to have been stolen. Subsequently, recovery has also been made. He also drew the attention of this Court to paragraph No.18 of the impugned order of the Court below, in which it is observed that the petitioner in C.M.P.No.715 of 2018 only has got necessary documents for the ownership. However, in paragraph 18, the nature of the document has not been discussed and not even marked as an exhibit, which I find that it is a procedural irregularity.

5. Therefore, this revision petition is allowed and the impugned order dated 03.03.2018 passed in C.M.P.No.715 of 2018 in Crime No.2 of 2018, is set aside and the matter is remitted back to the learned Judicial Magistrate and the learned Magistrate shall look into the matter afresh and it is open to the petitioner herein to file necessary documents and mark the same and based upon the documents produced, the learned Magistrate shall pass orders in accordance with law.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The Judicial Magistrate, No.5, Salem
2. Do Thro The Chief Judicial Magistrate Salem.
3. The Inspector of Police CCB, Salem City, Salem.
4. The Public Prosecutor High Court, Madras 104.

+1 CC to Mr.S. Kalyanaraman, Advocate sr 36089.

Cr1.R.C.No.489 of 2018

EV(CO)
SP(25/06/2018)