

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on :06.06.2018
Orders Pronounced on: 27.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.549 of 2018

M.Vijayarajan

...Petitioner/Accused

Vs.

The State rep.by
The Inspector of Police, (Law&Order)
M-3, Puzhal Police Station,
Thiruvallaur District

...Respondent/Complainant

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate at Thiruvottiyur in Crl.M.P.No.7431 of 2017 dated 18.01.2018 herein.

For Petitioner : Mr.G.Arivalagan

For Respondent : Mr.R.Surya Prakash,
Govt.Advocate (Crl.side)

O R D E R

The accused is the petitioner herein.

2. The case of the prosecution is that the respondent-police had registered a Crime No 1664 of 2017 under Section 328 IPC read with 7, 9(2) of TNPS Act against the petitioner and seized Rs.12,62,220/- (Rupees Twelve Lakhs Sixty Two Thousand and Two Hundred Twenty only) from the petitioner residence which is not involving to selling the Tobacco Prohibited items. As per petitioner, the petitioner is the absolute owner of the sum of Rs.12,62,220/- (Rupees Twelve Lakhs Sixty Two Thousand and Two Hundred and Twenty Only). The petitioner had filed petition under Section 451 for interim custody of the said money.

3. According to the petitioner, the petitioner's wife Rajeshwari expired on 11.12.2014. Thereafter, he struggled to grow up his two children. Subsequently, he married one Thilagavathi on 09.02.2017 and planned to establish a provision shop, and as per plan, he got one fine shop near M.R.Marker and hence, instantly, with help of well-wisher, he borrowed the said cash from on W.Voyala for monthly interest and kept this cash in his residence in order to start new business for his better

future. When the shop owner alters his idea to let his shop to someone, the amount has to be kept in the petitioner's residence, thereby, the respondent confiscated the above said amount from petitioner residence.

5. The learned counsel for the petitioner has submitted that the petitioner wife expired and thereafter, he borrowed the money and kept into the house. However, the police seized the said amount as that of the earned money from the proceeds of the crime by selling the Tabaco products which is the banned item.

6. Per contra, the learned Government Advocate (Crl.side) would submit that the case property to the tune of Rs.12,62,220/- which has been seized during the raid and that has been remanded as a case property in Crime No.1664 of 2017 for alleged offence under Section 328 of I.P.C read with 7 and 9 (ii) of the TNP Smoking and Spitting Act.

7. According to the petitioner/accused, it was the amount lying at the time of arrest as per the prosecution and product seized are banned items and the trial Court has come to the conclusion that whether it is a personal property of the accused or the sale produce of the crime, have to be determined after trial and hence, I do not find any irregularity or illegality in the rejection of the claim filed before the learned Magistrate.

8. In this view of the matter, this Criminal Revision Petition is dismissed.

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Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate at Thiruvottiyur.
2. The Inspector of Police, (Law & order) No.3, Puzhal Police Station, Thiruvallur District.
3. The Government Advocate High Court, Madras
4. The Section Officer, Record Section, High Court, Madras.

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BR(CO)
EU(16/07/2018)