

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2018

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.673 of 2018
and Crl.M.P.No.7833 of 2018

M.Karthikeyan

... Petitioner

Vs.

1 Deputy Inspector of Cell Officer,
Chennai Collectorate,
Chennai-600 001.

2 Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Chennai City-II,
Alandur, Chennai-600 016.

3 The Inspector of Police,
Vigilance & Anti Corruption,
Chennai City-II,
Alandur, Chennai-600 016.

... Respondents

Prayer:

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to set aside the orders dated 22.01.2018 made in Crl.M.P.No.12 of 2018 in FIR No.7/2017 passed by the learned Chief Judicial Magistrate, Chengalpattu and consequently direct the respondents to return the cash and cash receipt book taken from the petitioner's room to the petitioner.

For Petitioner : Mr.V.Sukumar

For Respondent : Mr. K.Prabakar
Additional Public Prosecutor

ORDER

This revision petition is directed against the dismissal of the petition filed under Section 451 of Cr.P.C., for order to return of cash of Rs.45,500/- seized from the petitioner, pending disposal of the trial.

2 The revision petitioner herein is the accused in Cr.No.7 of 2017 dated 24.11.2017 on the file of the Vigilance and Anti Corruption, Chennai. The case of the prosecution is that the subject currency of Rs.45,500/- was recovered from vehicle No.TN 22 DJ 2876, found in possession of the petitioner/accused.

3 The contra case of the petitioner is that the money was recovered from his room and not from the vehicle as contented by the prosecution. In the affidavit accompany the petition seeking return of money, the petitioner/accused had contended that during the search of his room, vigilance officials had seized money, which he had in possession to meet out expenses for the State Level Association Meeting to be held on 18.11.2017.

4 Relying upon the judgment of the Hon'ble Supreme Court Sundarbhai Ambalal Desai Vs. State of Gujarat [(2002) 10 SCC 287] the learned counsel for the revision petitioner would contend that the dismissal of his petition for return of cash is contrary to the guide lines of the Hon'ble Supreme Court and the order of the trial Court being a non speaking order, it has to be set aside and appropriate order to be passed directing the trial Court to return the money.

5 Heard the learned Additional Public Prosecutor for the respondents.

6 The learned Additional Public Prosecutor would submit that the bribe money and subject matter of the trial being the corpus delite the money cannot be returned to the petitioner. According to the learned Additional Public Prosecutor, based on credible information that the bribe transaction is going to take place on 17.11.2017 at the office of the stamping officer, Adambakkam, Alandur, a Joint Surprise Check was conducted on 17.11.2017 and the sum of Rs.45,500/- was seized from the two-wheeler used by the petitioner/accused parked inside the premises of the office. It is further contended by the learned Additional Public Prosecutor that if the petitioner would accept the seizure of money from his possession and does not the question identity of the currency, the money may be returned to him on condition which shall be appropriate to meet the ends of justice.

7 Considering the rival submission and guide lines of the Hon'ble Supreme Court in Sundarbhai Ambalal Desai Vs. State of Gujarat reported in 2002 (10) SCC 287, the accused herein is directed to furnish bank guarantee to the said amount and also file affidavit that he will not dispute the seizure of the money or the identity of the money. On such affidavit and production of bank guarantee in favour of the Chief Judicial

Magistrate, Chengalpattu. The trial Court shall take photographs of currency and return the money to the petitioner. The petitioner shall also give an undertaking to the effect that at the end of the trial if the money is found to be ill gotten, the petitioner shall deposit Rs.45,500/- with interest at 12% per annum within the time stipulated besides invocation of the bank.

8 With the above directions, this revision petition is ordered. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1 Deputy Inspector of Cell Officer,
Chennai Collectorate, Chennai-600 001.
- 2 Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Chennai City-II, Alandur, Chennai-600 016.
- 3 The Inspector of Police,
Vigilance & Anti Corruption,
Chennai City-II, Alandur, Chennai-600 016.
- 4 The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Sukumar, Advocate, S.R.No.38895

Cr1.R.C.No.673 of 2018

NA(CO)
CS/03/07/18

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