THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.919 of 2018

H.Veerakumar ... Petitioner/Sole Accused

/Vs/

State Rep by:
The Inspector of Police
Vigilance and Anti Corruption Wing,
Tiruppur.
(Crime No.6/2016/AC/TPR) ... Respondent/Complainant

PRAYER: Criminal Revision Case filed under sections 397 and 401 of Cr.P.C., to set aside the order passed by the Chief Judicial Magistrate, Tiruppur in C.M.P No.30 of 2018 in RCS.No.1/2017 dated 19.04.2018 and grant interim custody of the cash amount of Rs.7,00,000/- along with accrued interest to the petitioner.

For Petitioner : Mr.G.Vinodhkumar

For Respondent : Mr.K.Prabhakar
Additional Public Prosecutor.

O R D E R

This Criminal Revision Case has been filed against the dismissal o the petition filed by the petitioner under Section 451 of Cr.P.C for returning of cash amount of Rs.7,00,000/- seized from the house of the petitioner.

2. The brief fact is that the petitioner herein a public servant is an accused in the RCS.No.1 of 2017 on the file of the Chief Judicial Magistrate, Tiruppur. The respondent police has registered a case in Cr.No.6/2016/AC/TPR u/s 13(2) r/w Sec.13(1)(e) of the Prevention of Corruption Act on 23.11.2016. The petitioner was working as Sub-Registrar, Grade-I at Avinashi. As per the prosecution, a surprise check was made by the Deputy Inspection Cell Officer on 27.03.2013 between 15.30 hrs and 17.30 hrs, during which unaccounted cash of Rs.76,375/- was recovered from the office of the accused. Thereafter, a house search was conducted at his residence on the same day between 21.30 and 22.15 hrs and an amount of

Rs.7,00,000/- was seized from the residence of the petitioner. The amount was produced before the Special Court for Prevention of Corruption Act cases, Coimbatore on 28.03.2013. Thereafter, based on the recommendation of Director of Vigilance Anti Corruption, Chennai, the case was referred to Tribunal. In respect of unaccounted cash of Rs.76,375/-, the tribunal took cognizance in T.D.P No.7 of 2016. Whereas, the case in respect of seizure of amount of Rs.7,00,000/- from the respondent, the case is pending investigation in Cr.No.6 of 2016. The case has also been transferred to the Special Court. The petitioner had filed the petition before the lower Court stating that the amount of Rs.7,00,000/- is kept idle without useful purpose to anybody period for the past 5 years and that if the amount is returned to the petitioner, there will be no prejudice for the respondent. The respondent has filed a counter before the trial Court stating that the amount of Rs.7,00,000/- was seized by the respondent from the wooden almirah in bedroom of the petitioner and that at the time of examination of the petitioner, he had informed the Investigating Officer that he used to keep the bribe amount at his residence and also take it to his native place whenever he went there. Further, till now the petitioner had not given any statement of accounts or proof for legally possessing the amount of Rs.7,00,000/-.

3. The learned trial Judge after hearing the petitioner and the respondent has held that the petitioner was unable to account for the source of the amount recovered from him had refused to return the amount. Further, the court has also held that the seized amount had been deposited in Fixed Deposit Scheme in the Indian Overseas Bank, District Court Branch, Coimbatore, vide FDR No.170804501500901 to 907 and the trial court has also held that even after a lapse of 5 years, the petitioner is unable to furnish the source for Rs.7,00,000/- and recovery from his custody and thereby dismissed the application.

4. Against the dismissal of the petition for return of cash the present revision has been filed. The petitioner has not furnished any evidence to prove the legal source of amount even till today before this court. Further, it is seen from the records that the amount has been deposited before the Nationalized Bank and incurring interest. The money is not kept idle as cash. It had been invested in Fixed Deposits.

5. As per the opinion of this court, no prejudice would be caused to the petitioner and it is seen that the amount has not been kept idle. If the petitioner is able to prove his case before the trial court, there is a chance to get back the amount. This court cannot order for return of cash to the petitioner at this juncture. When no evidence had been produced by the petitioner to prove legal possession of the cash recovered from his residence.

6. In view of the above, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

vji/ssi

To

1. The Chief Judicial Magistrate, Tiruppur.
2. The Additional Public Prosecutor,
   High Court of Madras.
3. The Inspector of Police
   Vigilance and Anti Corruption Wing,
   Tiruppur.

+1cc to Mr.G.VINODH KUMAR , Advocate SR.No. 65333

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ASK(11/10/2018)