

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Cr1.R.C.No.649 of 2017

1.N.Uma Maheswari

2.P.R.Vairamani

.. Petitioners/Accused

Vs.

1.State Rep.by

The Inspector of Police,
Central Crime Branch-II
Veppery, Chennai 600 007.

2.R.Elangovan

.. Respondents/Defacto complainant

Criminal Appeal filed under Section 397 r/w 401 Cr.P.C. to call for the records relating to the dismissal order made in C.M.P.No.4376 of 2016 on the file of the Judicial Magistrate Court No.I, Poonamallee dated 17.10.2016 in Crime No.164 of 2015 and set aside the same and directing the respondent to return the seized articles viz., 1.Laptop Acer 2. Laptop Dell 3.Cellphone-MotoG 4.Original passport of 1st petitioner and 5.Original Passport of the second petitioner in Crime No.164 of 2015.

For Appellant : Mr.S.Kumaradevan

For R1 : Mr.G.harihara Arun Soma Sankar
Government Advocate.

O R D E R

This revision has been filed to set aside the order dated 17.10.2016 made in C.M.P.No.4376 of 2016 on the file of the learned Judicial Magistrate No.I, Poonamallee.

2. According to the petitioners, he was running unauthorised agency viz., M/s.V.P.R.Enterprises for sending candidates to obtain jobs from abroad viz., Muscat. The defacto complainant had approached the petitioners and they have demanded money to the tune of Rs.80,000/- along with the original passport. The defacto complainant has paid the said amount to the petitioners in two instalments. Even after a

lapse of five months, the petitioners have not taken any steps. The defacto complainant came to know that he was cheated by the petitioners and requested them to return his money along with passport. But the petitioners threatened the defacto complainant with dire consequences and also refused to return the said amount along with passport. Hence, the defacto complainant lodged a complaint dated 07.01.2016 to the first respondent/Inspector of Police. Thereafter, the petitioners were arrested by the first respondent and remanded to Judicial custody. At the time of arrest, the valuable articles viz., Laptop Acer, Laptop Dell, Mobile Phone- Moto-G, Passport (Original) of the 1st petitioner and Original Passport of the second petitioner, were also seized by the 1st respondent police and kept in the petitioners' custody. Hence, the petitioners have filed a petition in CrI.M.P.No.4376 of 2016 on the file of the learned Judicial Magistrate No.I, Poonamallee for returning the seized articles and the same was dismissed by the trial Court on the ground that investigation is still pending. Hence, the petitioners have filed the present criminal revision before this Court.

3. It is seen from the records that the petitioners had filed the petition under Section 451 of Cr.P.C. in C.M.P.No.4376 of 2016 on the file of the learned Judicial Magistrate No.I, Poonamallee seeking return of the property viz., 1.Passport 2.Cell Phone(Moto Block color) 3.Laptop Blue and Black colour. On 17.10.2016, notice was ordered to the first respondent and he has given a reply to the said Court. On the basis of reply given by the first respondent, the order was passed by the trial Court on the same day. She further submitted that no reply was received from the Passport Authority. The entire articles were seized in Form-95 by the Inspector of Police, Central Crime Branch-II, Vepery, Chennai from the petitioners and the trial Court was also received the same. The first petitioner has filed an affidavit, wherein it is stated that the seized articles were not deposited in the Court by the respondent police. But, this Court finds that the said articles were deposited before the trial Court.

4. Considering the facts and circumstances of this case, the impugned order passed in C.M.P.No.4376 of 2016 on the file of the learned Judicial Magistrate No.I, Poonamallee, dated 17.10.2016 is hereby set aside. The petitioners are at liberty to file a fresh application before the said Magistrate. The said Magistrate is directed to consider the same on merits and in accordance with law, on giving notice to all the parties concerned.

With the above direction, this criminal revision is allowed.

Sd/-
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

kkd

To

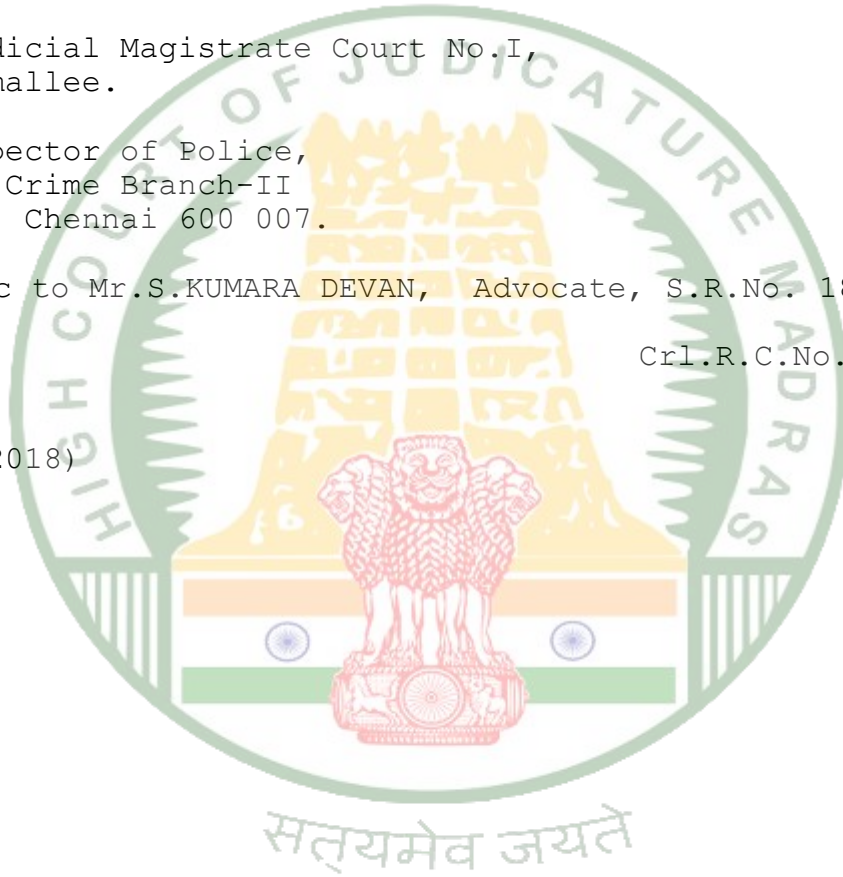
1. The Judicial Magistrate Court No.I,
Poonamallee.

2.The Inspector of Police,
Central Crime Branch-II
Veppery, Chennai 600 007.

+1cc to Mr.S.KUMARA DEVAN, Advocate, S.R.No. 18546

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RR (CO)
TR (08/05/2018)



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