

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.12.2018
CORAM :
THE HON'BLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1247 of 2018

S.V.Sekar

... Petitioner/Petitioner

Vs.

The State rep by Inspector of Police,
Gudiyatham Town Police Station,
Gudiyatham,
Vellore District.

.... Respondent/Respondent

PRAYER : The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order dated 27.08.2018 passed by the learned Judicial Magistrate, Gudiyatham and direct the learned Judicial Magistrate, Gudiyatham, to return the amount of Rs.1,30,000/- and the Dell Computer deposited in the above Crime No.284 of 2018 on the file of the Court of Judicial Magistrate, Gudiyatham, to the petitioner.

For Petitioner : Mr.V.M.G.Ramakkannan

For Respondent : Mr.G.Harihara Arun Somashankar,
Government Advocate (Crl.Side)

O R D E R

The present criminal revision case has been filed against the order dated 27.08.2018 in Crl.M.P.No.4330 of 2018, passed by the learned Judicial Magistrate, Gudiyatham, Vellore District.

2. The case of the petitioner is that he was carrying on auto financing business at Gudiyatham. On 06.05.2018, while he was walking near his office, he was abducted by a gang of strangers and beaten and he was threatened to pay a ransom of Rs.10,00,000/-. In pursuance of the demand, the petitioner had contacted his daughter and thereafter his daughter and son arranged the said amount and carried the money to the place instructed by the gang and paid the same. On payment of the ransom, the petitioner was released by the abductors. After release from the gangsters, the petitioner lodged a complaint on 12.05.2018, with the respondent police who registered the above complaint in Crime No.284 of 2018 dated 12.05.2018.

3. After investigation, some of the accused were arrested and the police had recovered from them a sum of Rs.1,30,000/- and a Dell Computer, purchased out of the extorted money and

deposited the same in Crime No.284 of 2018, on the file of the learned Judicial Magistrate, Gudiyatham. Since the recovered amount and the Computer purchased out of the extortion belonged to the petitioner, he moved the Trial Court for return of property and filed a petition under Section 451 of Cr.P.C.

4. The learned Magistrate had dismissed the petition vide order dated 27.08.2018 on the ground that if the properties are returned, it will hamper the progress of the investigation and also there was a strong objection on behalf of the prosecution for return of property. As against the said order, the present revision case has been filed.

5. The learned counsel for the petitioner would submit that since the crime number has been registered on the basis of the complaint given by the petitioner herein that he was abducted and a ransom has been paid and a part of the amount had been recovered by the police, as a matter of right, the petitioner is entitled to return of the money as well as the Computer which was bought out of the ransom amount. Unfortunately, the Trial Court mechanically on the basis of the objection raised by the prosecution, had dismissed the petition. According to the petitioner, he had already suffered a loss by paying huge ransom to the gang. Once the police has recovered some portion of the amount, it is just and fair on the part of the police to return the amount to the owner and the learned counsel would plead that this Court to impose any condition for return of the property.

6. The learned Government Advocate appearing for the prosecution would not dispute the facts as stated above. However, he would submit that the learned Trial Court has passed an order on the basis of the materials placed before the Court for consideration and also on the basis of the objections raised on behalf of the prosecution.

7. In the course of the arguments, it was brought to the knowledge of this Court that an order was passed by the learned Judge of this Court in CrI.O.P.No.1581 of 2017, dated 27.01.2017, wherein, the learned Judge, under similar circumstances, has ordered return of the amount by imposing certain conditions. Since the fact that the Crime No.284 of 2018 has been registered on the basis of the complaint filed on behalf of the petitioner and the fact that a sum of Rs.1,30,000/- had been recovered with Dell Computer, which had not been disputed by the respondent, this Court is of the considered view that the petitioner is entitled to return of the property pending finalization of the trial.

8. Although the Court below had denied the relief on the basis of the objection by the prosecution, this Court is of the view that the petitioner being a rightful owner of the property,

cannot be denied his due and the return of property would not any way hamper the progress of the trial and would not undermine the due process of law. Therefore, considering the materials and pleadings placed on record, the impugned order dated 27.08.2018 in CrI.M.P.No.4330 of 2018, is hereby set aside and the present criminal revision case is allowed on the following terms:

(i) The learned Judicial Magistrate, Gudiyatham, shall return the cash of Rs.1,30,000/- to the petitioner, after recording the currency note numbers in the property register, if not already recorded.

(ii) The learned Judicial Magistrate shall return the Dell Computer after noting down the features of the Computer and approximate value of the same.

(iii) The revision petitioner shall execute a personal bond for a sum of Rs.1,30,000/- for the satisfaction of the said Magistrate. The photograph of the Computer shall be taken and the same shall be kept in the Court records. The revision petitioner shall produce the Dell Computer as and when ordered by the Trial Court. The revision petitioner shall not dispose of, alter or change the Computer until final order is passed by the Trial Court. The revision petitioner is also permitted to deal with the cash as he deems fit.

(iv) It is made clear that no property document, solvency certificate or surety shall be insisted upon from the petitioner.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate,
Gudiyatham, Vellore District.
- 2.-do- Thro' Chief Judicial Magistrate,
Vellore.
- 3.The Inspector of Police,
Gudiyatham Town Police Station,
Gudiyatham, Vellore District.
- 4.The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.1247 of 2018

SR(CO)
rrs 25/01/2019