

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 23.11.2018

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

Crl.Revision Case No.1331 of 2018

Mr.Basheer

.. Petitioner

versus

The State, by Inspector of Police,
Food Cell Wing Police, CSID,
Polachi Police Station, Polachi
Coimbatore District.

... Respondent

Prayer: This Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., against the order dated 31.10.2018 passed in C.M.P.No.4181 of 2018 by the learned Judicial Magistrate No.IV, Coimbatore.

For Petitioner : Mr.Guruprasad

For Respondent : Mr.G.Harihara Arun-
Somasankar, GA

ORDER

This Criminal Revision Case has been filed against the order passed in C.M.P.No.4181 of 2018 by the learned Judicial Magistrate No.IV, Coimbatore, in and by which, the application filed under Section 451 Cr.P.C. seeking for return of the cash amount of Rs.17,830/- seized by the respondent police in connection with Crime No.296 of 2018 came to be rejected.

2. It appears that the petitioner was apprehended by the respondent police along with 1000 kg of PDC rice in a vehicle bearing Reg.No.KL 47 H 518 and he was in possession of Rs.17,830/- for purchasing of PDS rice in illegal manner. After seizure of cash, the respondent police produced the same before the Court below. The petitioner moved a petition under Section 451 Cr.P.C. for return of cash seized, stating that the seized cash was absolutely belonging to him. The learned Magistrate rejected the petition, stating that there was no bona fide in the claim of the petitioner and if the cash was returned to the petitioner, the chances for recovery of the same amount on proof of guilt of the accused is very remote.

3. The learned counsel appearing for the petitioner would submit that a false case was foisted against the petitioner and he did not involve in any offence as alleged by the respondent police. Though the petitioner has given undertaking before the Court below to deposit as and when it directs to do so, the learned Magistrate has rejected the claim of the petitioner. He would submit that until the prosecution proves the case against the petitioner, he is entitled to the custody of the cash seized and if the petitioner ultimately is found guilty, he can very well deposit the amount as undertaken by him.

4. The petitioner has sought for return of cash seized by the respondent police for the purpose of repaying the debts to the third parties and at the same time, he had undertaken that he would redeposit the amount whenever he is directed. Therefore, the learned Magistrate has observed that the reason for request of return of cash and the undertaking are mutually contradictory and hence, the Magistrate declined to return the cash to the petitioner. The learned Magistrate has further observed that if the cash was returned to the petitioner, he being the accused, the chances for recovering the said amount on proof of his guilt are very remote. A perusal of the order would go to show that the learned Magistrate has exercised discretion judicially after due consideration in regard to chances of recover of the amount from the petitioner if he is found guilty of the offence. Therefore, this Court does not find any infirmity in the order passed by the learned Magistrate in order to interfere with the same.

Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-VIII)

/True copy//

सत्यमेव जयते
Sub Assistant Registrar

suk

To
Inspector of Police,
Food Cell Wing Police, CSID,
Polachi Police Station, Polachi
Coimbatore District.

+1cc to Mr.M.Guruprasad, Advocate SR.No.80067

CRL.R.C.NO.1331 OF 2018

NM(CO)
GMY(27/12/2018)