



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.04.2018

DELIVERED ON : 20.06.2018

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THE HONOURABLE MRS. JUSTICE R.THARANI

Cr1.R.C.(MD)No.222 of 2018

Balakrishnan @ Bala

... Petitioner/Petitioner

Vs.

State represented by
The Inspector of Police,
District Crime Branch,
Tirunelveli.

(Crime No.21 of 2017)

... Respondent/Respondent

Prayer : Revision filed under Section 397 and 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate Court No.I, Tirunelveli, in Cr.M.P.No.6665 of 2017 dated 11.01.2018 in Crime No.21 of 2017 on the file of the respondent police and direct the Court below to return the above said articles to the petitioner till the disposal of the case.

For Petitioner : Mr.S.Vanchinathan

For Respondent : Mr.M.Chandrasekar
Additional Public Prosecutor

O R D E R

Heard Mr.S.Vanchinathan, learned Counsel appearing for the petitioner and Mr.M.Chandrasekar, learned Additional Public Prosecutor appearing for the respondent.

2. The case of the prosecution is that the petitioner is a Cartoonist. On 24.10.2017, the petitioner has displayed one cartoon on his personal face book page, in respect of a self-immolation incident that occurred on 23.10.2017 due to exorbitant interest problem at the Collectorate campus in Tirunelveli. In that cartoon, he portrays the burning body of a baby being watched over by three persons carrying currency notes to cover their private parts.



3. The said three persons are named as the District Collector, Tirunelveli, the Superintendent of Police, Tirunelveli and the Chief Minister of Tamil Nadu. On 31.10.2017, the District Collector, Tirunelveli, has lodged a complaint before the Superintendent of Police, Tirunelveli and the same was forwarded to the respondent police herein. A case was registered by the respondent police against the petitioner in Crime No.21 of 2017 for the alleged offences punishable under Section 501 I.P.C., and Section 67 of the Information Technology Act, 2000.

4. The respondent has seized a Samsung Monitor - 1, CPU-1, UPS ICE Model ICE 600, Mouse -1, JIO Modem, Power Bank - TYLT, Key Board Logitech, Samsung Mobile phone Core duos SIM, Memory Card and two SIM cards. The petitioner filed a petition, to return of his properties, which was dismissed by the learned Judicial Magistrate No.I, Tirunelveli.

5. On the side of the petitioner, it is stated that the petitioner is depending upon the properties for his livelihood and hence, they have to be returned to the petitioner. It is further stated that even if the respondent wants further investigation, the Hard Disk alone can be retained and the other properties have to be returned.

6. On the side of the respondent, it is stated that the petitioner herein has filed CrI.O.P.(MD)No.15546 of 2017 to quash the F.I.R., in Crime No.21 of 2017 and obtained stay of further proceedings dated 15.11.2017 and hence, the respondent police could not complete the investigation and collect electronic evidence in time and the properties are seized under Section 76 of the Information Technology Act and Section 65(B) of the Indian Evidence Act. If the properties are returned, the respondent cannot be in a position to further investigate the case which involved a cyber crime offence. In a cyber crime offence, the computer and other materials are necessary for further investigation.

7. Records Perused.

8. The petitioner has stated that the properties are kept in open place and hence, they become useless. In the order dated 11.01.2018, passed in Cr.M.P.No.6665 of 2017, the learned Judicial Magistrate has stated that the properties are safe in the custody of the Court and they are not kept in the open place. Investigation is still pending. The offence is said to have been committed by using technical knowledge with the help of computer and related articles. If the properties are handed over to the petitioner, there may be a chance for deletion of records or tampering or modifying of electronic evidence by the petitioner.



9.Hence, in the above facts and circumstances, this Court is not inclined to set aside the order passed by the Court below. Accordingly, this Criminal Revision Case is dismissed.

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Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Tirunelveli.
2. The Inspector of Police,
District Crime Branch,
Tirunelveli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.S.VANCHINATHAN, ADVOCATE IN SR No. 69121

LS

TE/SKN-RSK/SAR-1 : 29/06/2018 : 3P/5C

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