



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C. (MD)No.494 of 2017

D.Selvaraj

: Petitioner / Accused

Vs.

The State Rep. by its
The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
(Crime No.64 of 2017).

: Respondent / Complainant

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records relating to the order of the learned Judicial Magistrate, Valliyoor, Tirunelveli District, in Crl.M.P.No.2270 of 2017, dated 29.04.2017 filed by the petitioner under Sections 457 and 451 of the Code of Criminal Procedure and set aside the same as illegal and entrust the custody of the manufacture fireworks property to the petitioner and allow the above Criminal Revision Petition as prayed for.

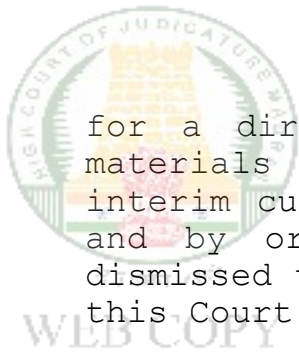
For Petitioner : Mr.M.Jegadeesh Pandian

For Respondent : Mrs.S.Bharathi,

Government Advocate (Crl.side)

ORDER

The Inspector of Police, Valliyoor Police Station registered a case in Crime No.64 of 2017 on 12.03.2017 under Sections 286 of the Indian Penal Code, Section 9(B)(1)(b) of the Explosives Act, 1884 and Section 5 of the Explosive Substances Act, 1908 against the petitioner for possession of chemicals and materials used for manufacturing fire works without licence in the Factory premises. The goods were seized and the seized materials have been entrusted to the Explosive Godown at Kadankulam, Nanguneri Circle for safe custody, since the same cannot be kept either in the Court or in the Police Station. It is submitted by the petitioner that such custody as that would lead to disastrous consequences. While so, the petitioner filed Crl.M.P.No.2270 of 2017 in Crime No.64 of 2017 under Sections 457 and 451 of the Code of Criminal Procedure



for a direction to the respondent police to produce the seized materials before the Court and for a further direction to give interim custody of the materials. The Trial Court heard both sides and by order dated 29.04.2017 in CrI.M.P.No.2270 of 2017, has dismissed the petition, aggrieved by which, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) for the respondent.

3. The learned counsel for the petitioner submitted that the petitioner was originally a licensee and that his licence expired and he sought renewal of the licence and filed an application before the District Revenue Officer. The District Revenue Officer rejected the renewal application, aggrieved by which, the petitioner filed W.P.(MD)No.24373 of 2016, in which, this Court allowed the Writ Petition on 22.12.2016 and set aside the order of the District Revenue Officer rejecting the request of the petitioner for renewal of licence and remitted the matter back to the District Revenue Officer for consideration. Therefore, the learned counsel submitted that in view of Rule 112(5) of the Explosives Rules, it should be construed that the petitioner had a valid licence as on the date of seizure by the police on 12.03.2017.

4. Per contra, the police have relied upon the judgment of this Court in W.P.No.25423 of 2007, dated 19.02.2010, wherein a different interpretation appears to have been given.

5. Be that as it may, the fact remains that as on the date of inspection by the police, the petitioner did not have the necessary licence. In W.P.(MD)No.24373 of 2016, this Court has only remitted the matter back to the District Revenue Officer and has not given a direction for issuance of the licence retrospectively. In such view of the matter, there is no infirmity in the finding of the Court below warranting interference.

6. That apart, the learned Government Advocate (Criminal side) submitted that there are two other cases against the petitioner for similar offences namely Crime No.3 of 2014 and Crime No.302 of 2014. Hence, there cannot be a direction to the police to produce the crackers before the Trial Court under Sections 457 and 451 of the Code of Criminal Procedure as prayed for by the petitioner.

7. In the result, this revision is devoid of merits and accordingly, the same is dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/



1. The Judicial Magistrate,
Valliyoor, Tirunelveli District.
2. The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

sml

MV:GT:SAR1:20/03/2018/3P/4C

Order made in

Cr1.R.C. (MD) No.494 of 2017

Dated:-

02.03.2018