



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

Cr1.R.C. (MD) No.742 of 2017

M.Murugesan

: Petitioner

Vs.

1. The State rep. by
The Inspector of Police,
Batlagundu Police Station,
Dindigul District,
In Cr.No.281 of 2017.

2.Kumaresan
3.Rajasekar
4.Sekar

: Respondents

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records in Cr1.M.P.No.2172 of 2017, dated 04.09.2017 on the file of the learned Judicial Magistrate, Nilakottai and set aside the same and allow the revision Petition.

For Petitioner

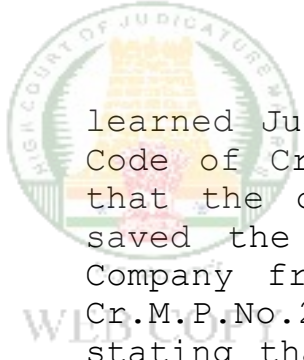
: Mr.M.Sankar

For Respondent No.1

: Mrs.S.Bharathi,
Government Advocate (Cr1.side)

ORDER

The first respondent police registered a case in Crime No.281 of 2017 on 18.07.2017 under Section 7(3) of the Lotteries Regulation Act, 1998 against Kumaresan (A-1), Rajasekar (A-2) and Sekar (A-3). It is the case of the prosecution that the three accused were suspiciously moving about and when they were intercepted by the police, they were in possession of Singam, Rosa, Kuyil, Dear, Thangam, Nalla Neram, Kumaran and Vishnu lotteries totally numbering 3427 and they were also in possession of cash of Rs.1,99,080/-. The police arrested the accused and seized the lotteries and the cash. While so, the petitioner herein filed Cr.M.P.No.2172 of 2017 in Crime No.281 of 2017 before the



learned Judicial Magistrate, Nilakkottai under Section 451 of the Code of Criminal Procedure for return of the cash on the ground that the cash of Rs.1,99,080/- belonged to him and that he had saved the amount and deposited it in Kokulam Chits and Funds Company from and out of his own income. During the enquiry in Cr.M.P.No.2172 of 2017, the accused have filed an affidavit stating that they have no objection in the cash being handed over to the petitioner. However, the prosecution has strongly objected to the return of the cash to the petitioner on the ground that the petitioner has no *locus standi* and that the cash is required for proving the offence. The Trial Court, by the impugned order dated 04.09.2017, in Cr.M.P.No.2172 of 2017, has dismissed the petition, aggrieved by which, the revision has been filed.

2. Heard Mr.M.Sankar, learned counsel for the petitioner and Mrs.S.Bharathi, learned Government Advocate (Criminal side) for the first respondent.

3. Mr.M.Sankar, learned counsel for the petitioner submitted that the accused have stated no objection for the return of the cash to the petitioner and, therefore, the Trial Court should have returned the cash. This argument deserves to be stated only to be rejected because no accused will say that the contraband seized from him actually belongs to him. It is for more easier for him to say that the contraband belongs to someone else and not to him, so that, he can escape from criminal liability. In such view of the matter, the no objection given by the accused can have no relevance in a case of this nature, when it is the case of the prosecution that the seizure has been effected from the accused along with lottery tickets. Hence, this Court does not find any infirmity in the order passed by the Court below warranting interference.

4. In the result, this Criminal Revision Case is devoid of merits and accordingly, the same is dismissed.

Sd/-

Assistant Registrar(T&P)

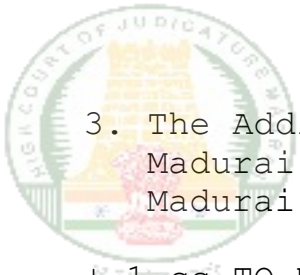
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Sub Assistant Registrar

To

1. The Judicial Magistrate,
Nilakottai.

2. The Inspector of Police,
Dindigul District,



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc TO Mr.M.Sankar , Advocate in SR No. 52627

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SML

AE/SV MMS/SAR2/19.03.2018/3P/5C

Order made in
Cr1.R.C. (MD) No.742 of 2017
Dated:-02.03.2018