



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2018

CORAM

THE HONOURABLE MR. JUSTICE **R. PONGIAPPAN**

Crl.O.P. (MD) Nos.12938 and 12939 of 2013
and

M.P. (MD) No. 1 of 2013

1. Muthoot Finance Limited
Valliyoor Branch-II,
Represented by its Branch Manager,
R.Rajesh ... Petitioner/ Revision Petitioner/
Petitioner in Crl.O.P (MD).No.12938 of 2013

2. Muthoot Finance Limited
Valliyoor Branch-I
Represented by its Branch Manager,
P.Vijayendran ... Petitioner/ Revision Petitioner/
Petitioner in Crl.O.P (MD).No.12939 of 2013

Vs.

The Inspector of Police,
Valliyur Police Station,
Valliyur ... Respondent/ Respondent/
Respondent in both Crl.O.Ps.

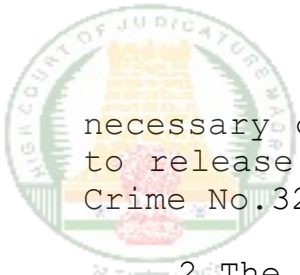
COMMON PRAYER: The Criminal Original Petitions have been filed under Section 482 of the Code of Criminal Procedure, to set aside the orders passed in Criminal Revision Case Nos.50 and 49 of 2012, dated 09.04.2013, on the file of the learned III Additional District Court, Tirunelveli, confirming the orders passed in Crl.M.P.Nos.15275 and 15274 of 2012, dated 03.10.2012, on the file of the Judicial Magistrate Court, Valliyoor and to pass appropriate necessary orders directing the Judicial Magistrate Court, Valliyoor to release the jewels seized from the petitioners under Crime No.321 of 2012 to the petitioners as interim custody.

In both Crl.OPs

For Petitioners : Mr.K.R.Laxman
For Respondent : Mr.A.Robinson
Government Advocate (Crl.Side)

C O M M O N O R D E R

These Criminal Original Petitions have been filed to set aside the orders passed in Criminal Revision Case Nos.50 and 49 of 2012, dated 09.04.2013, on the file of the learned III Additional District Court, Tirunelveli, confirming the orders passed in Crl.M.P.Nos.15275 and 15274 of 2012, dated 03.10.2012, on the file of the Judicial Magistrate Court, Valliyoor and to pass appropriate



necessary orders directing the Judicial Magistrate Court, Valliyoor to release the jewels, which were seized from the petitioners under Crime No.321 of 2012.

2.The petitioners herein are the revision petitioners in Crl.R.C.Nos. 50 and 49 of 2012 on the file of the learned III Additional District Court, Tirunelveli. The said criminal revisions were preferred by the petitioners against the order passed by the learned Judicial Magistrate, Valliyoor in Crl.M.P.Nos.15275 and 15274 of 2012, dated 03.10.2012.

3.Now, on go through the case of the petitioners, it would appear that the petitioners herein were running a Finance Company under the name and style of Muthoot Finance Limited in various places all over the Tamil Nadu. Mr.R.Rajesh and Mr.P.Vijayendran were working as the Manager of the said Finance Company. In this circumstances, on 14.05.2012, one Balachandrakumar/defacto complainant was standing in the Valliyoor Bus Stand and at that time, one Chitravel-A1, Marimuthu-A2 and Arjunan-A3 came in a TVS Bike and had threatened the defacto complainant to give money, for which, Chitravel took a knife and threatened the above said Balachandrakumar and forcibly took a sum of Rs.300/-(Rupees three hundred only), for which, the case has been registered on 15.05.2012 in Crime No.321 of 2012 on the file of the respondent police. Thereafter, on 16.05.2012, the Police Officials attached with the respondent police came to the above said finance company and recovered the petition mentioned properties without furnishing any F.I.R details and without even identification of the owners of the jewels.

4.According to the petitioners, the recovered jewels were not at all the subject matter of the said crime, thereby, the recovery made by the respondent police is totally illegal in nature. So, they filed this application before the learned Judicial Magistrate, Valliyoor in Crl.M.P.Nos. 15275 and 15274 of 2012, in which, they were seeking the relief to return the properties, which were recovered by the respondent police. The said applications were dismissed and thereafter the petitioners herein had filed the revision applications in Crl.R.C.Nos.50 and 49 of 2012, before the District Judge, Tirunelveli and after made over the same, the learned III Additional District Judge, Tirunelveli passed an order, in which, she has confirmed the order passed by the learned Judicial Magistrate, Valliyoor. Aggrieved over the same, these applications have been filed before this Court.

5.On the other hand, on go through the facts of the case, it would appear that after registering the case in Crime No.321 of 2012, on 17.05.2012, the above mentioned Chitravel, Marimuthu and Arjunan were arrested and the confession statement given by them were recorded. In that confession statement, the said persons had admitted that they have committed the chain snatching in all over Kanyakumari District and after committing the offence, the same was



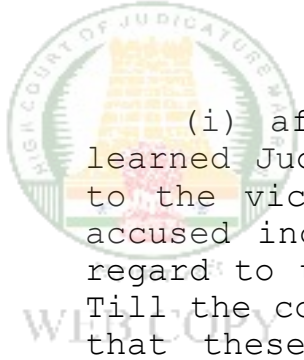
handed over to one Parvathi, who is the wife of Chitravel and after getting the jewels, the said Parvathi went to the jewellery shop and replaced the same as new one. Thereafter the said new jewels were pledged in the petitioners' finance company for availing loan. After recording the confession statement, the respondent police went to the petitioners' company and recovered the properties as mentioned by the petitioners.

6. In fact, after the recovery was made, the said properties were not handed over to the Magistrate, who is having the jurisdiction, so that the very same Chitravel filed an affidavit before this Court in Crl.O.P.No.11372 of 2013, in which, this Court directed the respondent police to file a charge sheet immediately and further directed the learned Judicial Magistrate, Valliyoor to complete the trial within a period of three months. The said order was passed by this Court on 12.12.2017. Accordingly, all the properties, which were recovered from the petitioners had been remanded in PR.No.301 of 2012. In fact, in the confession statement given by the accused, they had categorically mentioned the place of occurrence and the date of occurrence, in which, they snatched the chain. As of now, all the properties were in the custody of the learned Judicial Magistrate, Valliyoor and also this Court directed the said Magistrate to dispose of the case within a period of three months.

7. Now, after remanding the said material object (Jewels), the petitioners herein had filed an application before the learned Judicial Magistrate, Valliyoor for returning the jewels, which were recovered from the custody of the petitioners. The said applications had been dismissed by the learned Judicial Magistrate, Valliyoor by mentioning the reason that the petitioners are neither owners nor victims of the crime. The said order was confirmed by the learned District Judge in Crl.R.C.Nos. 50 and 49 of 2012, in which, the learned III Additional District Judge, Tirunelveli mentioned the reason that the petitioners had not shown any relevant records for believing that the properties now in the custody of the Judicial Magistrate, Valliyoor belongs to them.

8. Now, the properties in question were remanded to judicial custody based on the confession statement given by the accused in Crime No.321 of 2012. In the confession statement, they mentioned the names of the victims, who are all owners of the jewels, which were now in the custody of the learned Judicial Magistrate, Valliyoor.

9. So, the only solution available to the issue is that the learned Judicial Magistrate, Valliyoor shall examine the victims, whose names were mentioned in the confession statement given by the accused. Till then, without conducting any enquiry, returning the recovered properties to the petitioners will prejudice the process of trial and also that order needs to be shown to the real victims. So, it would be appropriate for giving a direction to the learned Judicial Magistrate, Valliyoor as follows:



(i) after disposal of the case, in Crime No.321 of 2012, the learned Judicial Magistrate, Valliyoor is directed to send a notice to the victims mentioned in the confession statement given by the accused including the petitioners and have a separate enquiry with regard to the owners of the properties and pass orders, thereafter. Till the continuation of enquiry, this Court comes to the conclusion that these petitioners are not entitled to avail the relief as prayed for in the petition.

10. With the above directions, this Court confirms the order passed by the learned III Additional District Judge, Tirunelveli in CrI.R.C.Nos. 50 and 49 of 2012. Accordingly, the Criminal Original Petitions are disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

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

+2cc to Mr.K.R.Laxman , Advocate Sr.No.54861

MSA

VB/JC/SAR4/05/04/2018/4P/7C

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