

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.215 of 2018

ORDER:

Heard the learned counsel for the petitioner and learned Public Prosecutor appearing for the respondent State.

Questioning the orders passed in CrI.M.P.No.2060 of 2017 in C.C.No.61 of 2015 dated 18.01.2018 on the file of the Judicial First Class Magistrate, Jammalamadugu, the present revision case is filed.

The facts of the case are that the de facto complainant/PW.1 is a native of Chagaleru Village, Vemula Mandal. About five years back, he came to Jammalamadugu along with the family and residing thereon working as a Manager in Sri Ramakrishna Filling Centre. In fact, the de facto complainant along with PWs.3 to 5 has taken Sri Guru Lakshmi Venkateswara Filling Station at Chinnakomerla of Mylavaram Mandal on lease and running the same. The accused, who used to come to petrol pump, developed acquaintance with him. The accused informed the petitioner that he did floor work in all the petroleum bunks in the State of Andhra Pradesh and Karnataka and in that process, he found one Lanke Binde containing gold coins. If the accused sells the said coins in the same area, the police may catch hold of him. The accused also gave some coins as sample and requested the de facto complainant to show the same to goldsmith for checking. The de facto complainant on verifying

with the goldsmith came to know that they are original gold coins. In those circumstances, the de facto complainant gave a sum of Rs.75,000/- and Rs.9,25,000/- to the accused and taken the gold coins weighing about 1 kg from him. Thereafter, when the complainant was in need of money, he took some coins and when tried to sell the same, he came to know that they are not gold coins, but they are made of brass. On suspicion, when the de facto complainant took out the remaining coins, he found all of them are made of brass. The de facto complainant after realizing that he was cheated, lodged a complaint on 18.12.2014. Pursuant to the said complaint, a crime was registered vide FIR.No.118 of 2014 under Section 420 IPC. After investigation, a charge sheet was laid against the accused for the offence under Section 420 IPC. The Court below has taken cognizance of the said offence and numbered the case as C.C.No.61 of 2015. The petitioner, who is the de facto complainant, filed a petition under Section 451 Cr.P.C. vide CrI.M.P.No.2060 of 2017 for interim custody of the sum of Rs.7,85,000/-, which was recovered from the accused. However, the said petition was dismissed by orders dated 18.01.2018. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the Court below ought not to have dismissed CrI.M.P.No.2060 of 2017, since the petitioner is the informant and he was cheated by the accused for selling fake gold coins

for a sum of Rs.9,25,000/-. During the course of investigation, the police have recovered a sum of Rs.7,85,000/- and the same has been deposited into the Court. In fact, on an earlier occasion, the Court below in CrI.M.P.No.5 of 2015 has given the interim custody of the said money to the petitioner. However, as per the directions of the Court below, he produced the cash of Rs.7,85,000/- for the purpose of marking it as MO.1 through PW.8 and since then the said amount is in the Court. Since the petitioner owns the said cash, he is entitled to receive the same and no useful purpose would be served if the said cash is retained in the Court and as such he filed the subject petition for interim custody of the said amount. Learned counsel also contended that the petition cannot be dismissed on the ground that the petitioner did not speak about he being cheated in the hands of the accused and he suffered a loss of Rs.10,00,000/- and the recovered cash of Rs.7,85,000/- belongs to him. The Court below ought to have considered that on an earlier occasion interim custody of the said amount of Rs.7,85,000/- was given to him vide CrI.M.P.No.5 of 2015 in Crime No.118 of 2014 on 09.01.2015. Therefore, it cannot be said that the petitioner is not entitled for the said amount.

Per contra, learned Public Prosecutor appearing for the respondent State would contend that in the evidence the petitioner has categorically denied his knowledge about the present case and also the report dated 18.12.2014 on the

ground that the police have obtained his signatures on some written papers. The petitioner also did not depose anything about the case and flatly denied the prosecution theory.

Having heard both the counsel and a perusal of the material on record would reveal that when the petitioner was examined, he has deposed that he does not know the accused, who is standing in the open Court. About two months back the police have obtained his signatures on written papers and he does not know the contents of the complaint. In fact, at the instance of the police, he put his signatures on the written complaint, Ex.P1. At that stage, the prosecution treated the petitioner as hostile. In those circumstances, the Court below dismissed the petition filed by the petitioner seeking interim custody of the said sum of Rs.7,85,000/- during pendency of the trial.

During the course of arguments, it was informed that the prosecution has already completed its evidence. At this stage, more particularly, in the light of the evidence given by the petitioner, the petitioner is not entitled to and it is not safe to give interim custody of cash of Rs.7,85,000/- to him. Whether the petitioner is entitled to the said amount would be established only after the trial is completed. As such, there are no merits in the revision case and the same is liable to be dismissed.

Accordingly, the criminal revision case is dismissed. However, the learned Judicial Magistrate of First Class,

Jammalamadugu, is directed to dispose of the main calendar case itself within a period of three months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 22.06.2018.
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