

HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CrI.R.C. No. 3393 of 2018

JUDGMENT:-

This Criminal Revision Case is arising out of the order dated 11.10.2018 in CrI.M.P.No. 2742 of 2018 in Crime No. 97 of 2018 passed by V Additional Judicial First Class Magistrate, Tirupathi, Chittoor District.

The brief facts of the case are that the petitioner is the *de facto* complainant and owner of the property in Cr.No.97 of 2018 on the file of the Court of V Additional Judicial First Class Magistrate, Tirupathi. On the complaint lodged by him with regard to the theft of gold ornaments, the police registered the above crime and recovered the entire gold ornaments as shown in F.I.R. in Item Nos.1 to 129. The petitioner has filed CrI.M.P.No. 2472 of 2018 under Section 451 Cr.P.C. before the trial Court for return of property as interim custody and the said petition was allowed vide order dated 11.10.2018 as follows:

“In the result, petition is allowed and the property i.e. 129 items of the property are ordered to be returned to the petitioner on his executing a bond for Rs.31,00,000/- with two sureties each for a like sum. The S.H.O., Central Crime Station, Tirupathi is directed to take photographs while returning the property and prepare mahazar to that effect and submit the same to this Court forthwith.”

The learned counsel for the petitioner submits that the petitioner is unable to get the valuation from any Department for Rs.31.00 lakhs towards surety, and therefore, he is unable to submit two sureties. It is further submitted that the market value certificate issued by the Sub-Registrar, Tirupathi shows the value of Rs.1,24,28,800/-, which cannot be accepted as a true value, and therefore, sought for modification of the orders passed by the trial Court.

The learned counsel for the petitioner further submits that the petitioner approached the trial Court for modification of the orders orally, but the trial Court did not accept, and therefore, he preferred the present Revision Case.

The point for consideration in this matter is whether the petitioner is entitled to modification of the order passed by the trial Court imposing the condition for release of the property under Section 457 Cr.P.C. ?

The petitioner originally has filed a petition before the trial Court under Section 451 Cr.P.C. seeking for return of the property and the trial Court allowed the said petition ordering return of the property of 129 items on condition of the petitioner executing a bond for Rs.31.00 lakhs with two sureties for a like sum with some other condition. The petitioner has not made any effort to seek modification of the order before the trial Court except making an oral submission

with regard to the difficulty in producing two sureties for an amount of Rs.31.00 lakhs for each surety.

The learned Additional Public Prosecutor has opposed for modification of the order passed by the trial Court.

In view of the fact that the petitioner is seeking only for relaxation of the condition of furnishing one surety of Rs.62.00 lakhs instead of two sureties for Rs.31.00 lakhs each, the order passed by the trial Court is modified to the effect that instead of two sureties for a sum of Rs.31.00 lakhs each, the petitioner may furnish one surety for Rs.62,00,000/- (Rupees Sixty Two Lakhs Only), and on furnishing such surety, the trial Court shall return the property after taking photographs as ordered by the trial Court.

With the above observations, the Criminal Revision Case is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

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GUDISEVA SHYAM PRASAD, J

13.12.2018

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