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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.No. 5825 of 2015
and M.P.No.1 of 2015

S.Saravanakumar

...Petitioner

Vs.

1. State Reptd.by
The Inspector of Police
B-6 Peelamedu Police Station
Coimbatore.

2. Banu Rekha

....Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order of the Learned V Additional Sessions Judge at Coimbatore in CRP No.36 of 2014 dated 16.09.2014 confirming the order in CMP No.3142 of 2014 dated 11.04.2014 disposed from the file of the Learned Judicial Magistrate-VI at Coimbatore.

For Petitioner : Mr.E.Malarkodi

For Respondents : Mr.C.Raghavan
Government Advocate.

ORDER

This Criminal Original Petition has been filed challenging the order passed in C.R.P.No.36 of 2014 which confirmed the order passed in C.M.P.No.3142 of 2014 wherein the petition filed under Section 451 read with 457 of Cr.P.C seeking for return of jewels was dismissed.

2. The learned counsel for the petitioner submitted that even though the second respondent is also claiming ownership over the jewellery, considering the criminal antecedents of the second respondent against whom a case of similar nature was registered and was convicted for an offence under Section 380 of I.P.C in C.C.No.428 of 2006, she cannot be in any way be the lawful owner of the property. The learned counsel further submitted that the petitioner has produced all the available



records to prove his ownership over the jewellery and the same has not been considered by the Court below.

3. The learned Government Advocate appearing on behalf of the respondents submitted that there is a clear dispute with regard to the ownership over the gold jewellery. The learned counsel further submitted that the petitioner and the second respondent are close relatives and both of them are claiming gold jewels, which originally belonged to their grand mother. Therefore, the learned counsel submitted that the Court below was right in dismissing the petition, since the Court cannot decide the ownership of the gold jewels in a petition filed under Section 451 read with 457 of Cr.P.C.

4. This Court has carefully considered the submissions made on either side and also the materials available on record.

5. It is clear from the order passed by the Court below that there is a clear dispute regarding the ownership over the jewels. Both the petitioner and the second respondent are basing their claim, on the ground that the jewellery was originally owned by their grand mother. This is a dispute which cannot be resolved by a Magistrate under Section 451 read with 457 of Cr.P.C. The case is of the year 2014, and at this length of time this Court is not inclined to interfere with the order passed by the Court below. This Court does not find any illegality or infirmity in the order passed by the Court below.

6. In the result, this Criminal Original Petition is dismissed and there shall be a direction to the Judicial Magistrate No.VI, Coimbatore to complete the proceedings in pending C.C.No.428 of 2006 within a period of three months from the date of receipt of a copy of this Order and at the time of disposal of the case, after the completion of proceedings, the jewellery shall be returned back to the appropriate owner. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

ssb

To

1.The learned Judicial Magistrate No.VI
Coimbatore.



2. The Learned V Additional Service Judge,
Coimbatore.

+1cc to Mr.E.Malarkodi, Advocate, S.R.No.47026

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AD (CO)

RRS (22/08/2019)