

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.7886 of 2019

L.Bagavanda das

...Petitioner

-Vs-

1.The Inspector General of Police,
Office of Inspector General of Police,
No.1, Dumas Street,
Puducherry - 605 001.

2.Inspector of Police,
Orleanpet Police Station,
Puducherry - 605 001.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the respondents to return the property in Crime No.513 of 2010.

For Petitioner : M/s.E.Raj Thilak

For Respondents : Mr.Bharatha Chakravarthy
Public Prosecutor (Puducherry)

ORDER

This Criminal Original Petition has been filed for a direction to the respondent police to return the property that was seized by them in the course of the investigation in Crime No.513 of 2010.

2. The petitioner is the defacto complainant and according to the petitioner, the respondent police had arrested the accused persons and seized 1000 gms, two pieces of gold bar and 33 sovereign of gold ornaments and other movable properties. The seized properties were also sent to the Judicial Magistrate No.II, Puducherry, under Form 95. It is the grievance of the petitioner that out of the 1000 gms of gold bar seized by the respondent police, only 383.150 grams of gold bar was submitted before the Court and the balance was not handed over to the Court. Hence, the present petition has been filed.

3. A counter affidavit has been filed by the second respondent. The second respondent has explained the entire investigation conducted in this case. The second respondent has stated that initially the petitioner did not mention that 1000 gms (2 gold bars) were stolen. This was a statement which was subsequently made by the petitioner. The counter affidavit further states that there are totally five crime numbers which are under investigation concerning the very same accused persons and the confession made in one case has led to the discovery of

the stolen property in another case and according to the second respondent, what ever properties have been recovered/seized during the investigation in all those five cases, have been produced before the Court.

4. The learned counsel for the petitioner submitted that the respondent police had actually seized 1000 gms of gold bar into two pieces and handed over only 383.150 gms of gold bar before the Court. Therefore, the respondent police must be directed to deposit the balance gold also which was seized by them during the investigation.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent police apart from reiterating the facts found in the counter affidavit filed by the second respondent, also submitted that in all the five cases, the investigation has been completed. C.C.Nos.978, 979 and 60 of 2015 is now pending before the Judicial Magistrate No.I, Pondicherry, similarly C.C.Nos.38/18, 139 of 2016 is not pending before the Judicial Magistrate No.II, Pondicherry. Insofar as the present case is concerned, it relates to C.C.No.139 of 2016. The learned public prosecutor submitted that all these five cases can be directed to be tried by one Court, since it involves the very same accused persons in all these cases. The material objects that were seized in each case will be marked before the Court, during the course of trial. At the time of marking, it will be easy to identify the material objects and match it with the concerned case and thereby whatever was actually seized can be identified and this confusion can be resolved to a great extent.

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

7. The crux of the issue is that the entire gold to an extent of 1000 gms (2 gold bar) was seized and only 383.150 grams of gold bar was submitted before the Court. It is seen from the counter affidavit filed by the second respondent that the seizure has happened in all these cases by virtue of the confession given by the accused persons, when they were arrested in different cases. The properties pertaining to one case would have shown as properties in the other case and all these confusions will get cleared only in the course of the trial. That is the stage, where the stolen properties will be marked before the Court as material objects. The trial Court will be able to identify the properties pertaining to each case. In view of the above, this Court is inclined to transfer the C.C.No38/18 and 139/16, now pending on the file of the Judicial Magistrate No.II, Pondicherry, to the file of the Judicial Magistrate No.I, Pondicherry.

8. The Judicial Magistrate No.I, Pondicherry, shall take up all the five cases and conduct trial in each case separately. The Judicial Magistrate will have the advantage of identifying the stolen property in each case. It will be easy for the Judicial Magistrate to correlate the stolen property with each case and thereby the confusion can be resolved to the great

extent. It will always be left open to the petitioner to identify the stolen properties before the Court and put forth his contentions before the Court below.

9. In the result, this Criminal Original Petition is disposed of with the following directions:

(a) The proceedings in C.C.No.38 of 2018, pending on the file of the Judicial Magistrate No.II, Pondicherry, and C.C.No.139 of 2016, is withdrawn and transfer to the file of Judicial Magistrate No.I, Pondicherry;

(b) The case record shall be transferred to the file of Judicial Magistrate No.I, Pondicherry, within a period of fifteen days from the date of receipt of this order;

(c) The Judicial Magistrate No.I, Pondicherry, shall thereafter, conduct the trial in all the five cases namely C.C.Nos.978/15, 979/15, 60/15, 38/18 and 139/16 on a day-to-day basis. The hearing dates in all five cases shall be fixed on the same date. Since the accused persons are same in all the cases, it will be easy for the trial Court to deal with the cases and to identify the stolen property in each case;

(d) The Judicial Magistrate No.I, Pondicherry, is directed to complete the proceedings in all the five cases within a period of six months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.I, Pondicherry.
 2. -Do-Thro' The Chief Judicial Magistrate, Pondicherry.
 - 3.The Inspector General of Police,
Office of Inspector General of Police,
No.1, Dumas Street, Puducherry - 605 001.
 - 4.Inspector of Police,
Orleanpet Police Station,Puducherry - 605 001.
 - 5.The Public Prosecutor, High Court, Madras.
- +1 cc to The Public Prosecutor(Pondicherry) Sr.No.59334