

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.378 of 2019

Jaffer Shadiq ...Petitioner/ Petitioner

-Vs-

State rep. by its
Inspector of Police,
D3, Podanur Police Station,
Crime No. 1132 of 2018
...Respondent/ Respondent

This Criminal Revision case is filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records and set aside the order passed in C.M.P.No. 616 of 2019 dated 07.02.2019 on the file of Judicial Magistrate No.VII, Coimbatore.

For Petitioner : Mr.C.Gunasekaran
For Respondent : Mr.R.Ravichandran
Government Advocate

O R D E R

This Criminal Revision Case has been filed against the dismissal order dated 07.02.2019 passed in C.M.P.No.616 of 2019 under Section 451 r/w. 457 of the Criminal Procedure Code for returning the property on the file of Judicial Magistrate No.VII, Coimbatore.

2. A case was registered in Crime No. 1132 of 2018 against the revision petitioner and some other accused and therefore, their properties were seized by the respondent police on 22.11.2018. During the pendency of the investigation, the petitioner has filed a petition in CMP.No.616 of 2019 before the learned Judicial Magistrate No. VII, Coimbatore under Section 451 r/w. 457 of the Criminal Procedure Code praying to return his property namely 'Dell computer monitor-1, LG CPU-1, Logitech Keyboard-1' for his office purpose.

3. After the trial, the learned Judge held that the investigation is pending and if the properties are returned to the petitioner, there is a possibility of tampering the evidence. Therefore, the learned Judge dismissed the said petition by holding that, handing over the seized properties to the petitioner would affect the investigation process.

4. The learned counsel for the petitioner would submit that, if the properties are not used for a long time, it would become unusable and he would sustain irreparable loss and therefore, it has to be returned to him.

5. The learned counsel appearing for the petitioner, in support of his contention, relied on the judgment of Ram Parkash Sharma vs. State of Haryana reported in (1978) 2 Supreme Court Cases 491, wherein, it has been held that the prosecution should not indefinitely keep the property in its custody nor need the court keep the property seized and produced before it unduly but this does not whittle down the need for the court to be vigilant when an application is made for return of property seized by the police as to the necessity of such property being required in the future course of the trial. Therefore, he prays to allow the present petition and set aside the dismissal order passed by the learned Magistrate.

6. In this case, the petition mentioned two properties are 'Dell computer monitor-1, LG CPU-1, Logitech Keyboard-1'. The allegation is by using the above properties forged fake bills. In view of Section 59 and 65 A of the Indian Evidence Act can be proved in accordance with admissibility of the electronic record depends upon the satisfaction of the four conditions under Section 65 B (2) of the Indian Evidence Act. The prosecution has to necessarily obtain certificate under Section 65 B of the Indian Evidence Act.

7. However, the learned Judicial Magistrate No. VII, Coimbatore is directed to direct the respondent police to complete the provisions of Section 65 B of the Indian Evidence Act, 1872 and after securing all the evidences and the same are produced before the learned Magistrate, and thereafter the petitioner is at liberty to file a fresh petition before the learned Magistrate. With the above observations, the Criminal Revision Petition is dismissed.

Sd/-

Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The learned Judicial Magistrate No.VII,
Coimbatore.

2. Do thro the Chief Judicial Magistrate,Coimbatore

3.The Inspector of Police,
D3, Podanur Police Station,
Crime No. 1132 of 2018

4. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.I.Abrar MD Abdullah, Advocate SR.No. 42770

CrI.R.C.No.378 of 2019

A.SK(14/10/2019)



WEB COPY