

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.RC.No.382 of 2019

Raja

...Appellant

-Vs-

The State Rep. by
The Inspector of Police,
PEW - Villupuram,
Villupuram District.
(Cr.No.30/2019)

...Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C., to call for the records of the lower Court and to set aside the order of the learned Judicial Magistrate No.II, Tindivanam dated 02.04.2019 passed in C.M.P.No.616 of 2019 in Crime No.30 of 2019 on the file of the PEW-Villupuram and allow this Criminal Revision Case.

For Petitioner : Mr.G.Sudhakar

For Respondent : Mr.R.Ravichandran,
Government Advocate (Cr1.Side)

O R D E R

This petition has been filed by the petitioner/accused to set aside the order of the learned Judicial Magistrate No.II, Tindivanam dated 02.04.2019 passed in C.M.P.No.616 of 2019 in Crime No.30 of 2019 on the file of the PEW-Villupuram.

2. A complaint given by the one Renugadevi against the petitioner herein. Based on the complaint, the respondent registered a case in Crime No.30 of 2019 for offence under Sections 4(1)(aaa) and 4(1-A) Tamil Nadu Prohibition Act against the petitioner and another. During investigation, the respondent police recovered money for a sum of Rs.3,50,000/- from the revision petitioner/accused. For which the accused has filed the petition before the learned Judicial Magistrate-II, Tindivanam in C.M.P.No.616 of 2019 for returning the seized money. After hearing both sides, the learned Magistrate dismissed the petition. Aggrieved against the same, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that a false case has been foisted against the petitioner and seized money was not involved in the offence and the same was kept by the petitioner only to pay the school fees for his children. The petitioner has three school going children and the amount is required for their educational expenses. There is no previous case as against him. He is no way connected in this issue. Therefore, the learned counsel prays to return the money.

4. The learned Government Advocate (Criminal Side) would submit that the investigation is at preliminary stage, if the amount is returned to the petitioner, there is possibility to invoking the money for the very same offence. Whether the money is involved for the sale of arrack, only can be decided during investigation. However, the same cannot be returned at this stage. Hence, the order passed by the learned Magistrate does not warrant interference.

5. Heard the learned counsel appearing for the revision petitioner/accused as well as the learned Government Advocate and perused the materials available on record.

6. Admittedly the respondent police registered the case against the petitioner in Crime No.30 of 2019 for offence under Sections 4(1)(aaa) and 4(1-A) Tamil Nadu Prohibition Act. At that time, the respondent police has recovered a sum of Rs.3,50,000/- from the petitioner and the same has also been deposited before the learned Judicial Magistrate. The investigation is at initial stage and charge sheet is yet to be filed.

7. At this juncture, this Court is of the view that Sections 451 and 457 Cr.P.C. cannot be invoked by the learned Magistrate. Further the Magistrate has also given sufficient reason for the dismissal. This Court, does not find any perversity in the order passed by the learned Judicial Magistrate -II, Tindivanam in C.M.P.No.616 of 2019 dated 02.04.2019 and there is no merit in the revision.

8. In the result, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II,
Tindivanam.

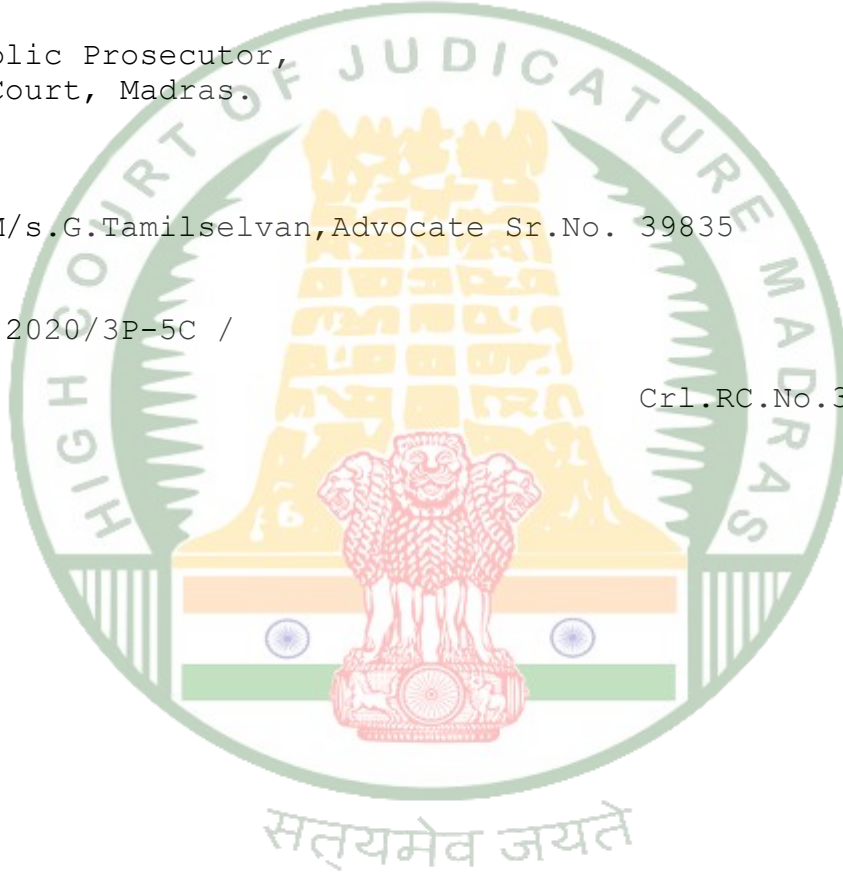
2.The The Inspector of Police,
PEW - Villupuram,
Villupuram District.

3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.G.Tamilselvan,Advocate Sr.No. 39835

AKM/10.01.2020/3P-5C /

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