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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

Cr1.R.C.No.396 of 2019

Jayalakshmi

.. Petitioner / Defacto
Complainant

Vs.

State rep. by
The Inspector of Police,
S-9 Pazhavanthangal Police Station,
Chennai.
Crime No.528/2018

.. Respondent / Complainant

Prayer : Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order passed in C.M.P.No.275 of 2019 dated 15.02.2019 on the file of the learned Judicial Magistrate, Alandur.

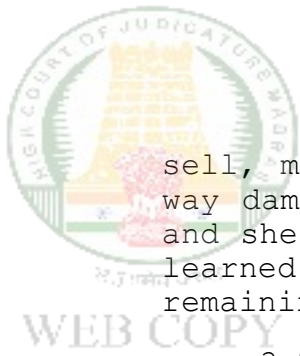
For Petitioner : Mr.T.Muthukrishnan

For Respondent : Mr.K. Prabakar,
Additional Public Prosecutor

O R D E R

According to the petitioner/defacto complainant, she is the owner of the case properties in Cr.No.528/2018 on the file of the respondent police. She filed a petition in CMP.No.275 of 2019 seeking return of the case properties. By order dated 15.02.2019, the trial court has partly allowed the said petition in respect of the items viz., Thaali chain weighing 39.700 grams. As against the dismissal of the said petition in respect of the properties viz., 9.300 grams of Thaali, 3.800 grams of 6 Gundu and 11.200 grams of 4 gold coins, the petitioner has preferred this revision.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of all the properties seized from the accused. However, the trial Court has ordered only for return of the part of the items, which is incorrect and unsustainable in law. The learned counsel also filed an Undertaking affidavit of the petitioner dated 19.12.2019 to the effect that she will not



sell, mortgage or alter the nature of the gold jewels or in any way damage the same, if the gold jewels are handed over to her; and she will produce the same, as and when necessary. Hence, the learned counsel sought appropriate direction for return of the remaining gold articles.

3.The learned Additional Public Prosecutor appearing for the respondent, on instructions, submitted that identification of the properties has been done and it was found that the gold jewels belong to the petitioner. Hence, he has no objection for return of the same to the petitioner.

4.Considering the submissions made by the learned counsel on either side and also having regard to the admitted fact that the petitioner is the owner of the properties in question, this Court deems it fit and appropriate to order for return of the properties to the petitioner, as it is of no use to keep such valuable articles either in police custody or in the trial Court for a long period.

5.Accordingly, the criminal revision is allowed by setting aside the order of the trial Court insofar as the dismissal of the petition in respect of thaali -3 nos. weighing 9.300grams, 3.800 grams of Gundu (6 Nos.) and 11.200 grams of gold coins (4 Nos). The trial Court is directed to return the properties in question to the petitioner within a period of seven days, on production of a certified copy of this order, after taking photographs of the same and execution of the panchnama. The affidavit of undertaking dated 19.12.2019 filed by the petitioner before this Court is taken on record. Needless to state that the petitioner shall not alienate or encumber by way of sale, pledge etc., or alter/change/damage the physical features of the properties; and she shall produce the same either before the respondent police or trial Court as and when necessary.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Alandur.



2. Though The Chief Judicial Magistrate,
Chengalpet.

3. The Inspector of Police,
S-9 Pazhavanthangal Police Station,
Chennai.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.Muthukrishnan, Advocate Sr.106035

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srg 03/01/2019