

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.19049 of 2019

Karunanidhi

...Petitioner

-Vs-

1. Sathya

2. Inspector of Police,
Keelapalur Police Station,
Ariyalur District.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 29.05.2019 made in C.M.P.No.1069 of 2019 on the file of Judicial Magistrate Court No.II, Ariyalur and direct the 2nd respondent to return the immovables seized on 11.06.2019 to the petitioner forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original petition has been filed challenging the order passed by the Court below, whereby the Court below had directed the respondent police to seize the entire movable properties from the petitioner and hand it over to the 1st respondent.

2. The learned counsel for the petitioner submitted that the petitioner is running a hotel and the husband of the 1st respondent was working under the petitioner. There was some dispute between the 1st respondent and her husband.

3. All of a sudden, the 2nd respondent police came to the hotel of the petitioner and made a search and seized all the movables from the Hotel. The petitioner came to know that this was done pursuant to the order passed by the Court below under

Section 94 of Cr.PC based on the petition filed by the 1st respondent. Challenging the said order and the consequent seizure of the movable properties belonging to the petitioner, the present petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that the order passed by the Court below and the seizure of the movable properties by the 2nd respondent police is illegal and opposed to law. The learned counsel for the petitioner submitted that this was done even without an FIR being registered and without putting the petitioner on notice.

5. The learned counsel appearing on behalf of the 1st respondent submitted that the properties belonging to the 1st respondent was kept in the hotel by her husband and the 1st respondent had sought for recovery of those articles. The learned counsel further submitted that the petitioner will have to work out his remedy only before the Court below and the present petition is not maintainable.

6. Heard the learned Additional Public Prosecutor appearing on behalf of the 2nd respondent police.

7. The procedure followed by the Court below is unknown to law. It is seen in this case that there is a dispute between the 1st respondent and her husband and the petitioner is a rank 3rd party in the said dispute. Admittedly, no FIR has been registered in this case. Chapter VII of the Code of Criminal Procedure provides for a process to compel the production of things. This Chapter comes into play as and when, the Investigating officer in the course of investigation deems it fit to issue summons for the production of a document or a thing or to conduct a search and to seize the properties. This process is undertaken only after registration of an FIR under Section 154 of Cr.PC. In the present case, this process has been adopted merely based on the complaint given by the 1st respondent against her husband and it has been invoked against the petitioner, who had nothing to do with the dispute. The movable properties of the petitioner, which were kept in the hotel have now been removed and taken away, as a result of which, the petitioner has been prevented from running the hotel.

8. This Court has no hesitation to set aside the order passed by the Court below in C.M.P.No.1069 of 2019 and accordingly, the same is set aside. The movable properties that were seized and removed from the petitioner, shall be handed over to the petitioner by the respondent police.

9. It will be left open to the respondent police to take any action in future only in accordance law and in accordance

with the procedure contemplated under the Code of Criminal Procedure.

10. This Criminal Original petition is disposed of with the above directions.
rka

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

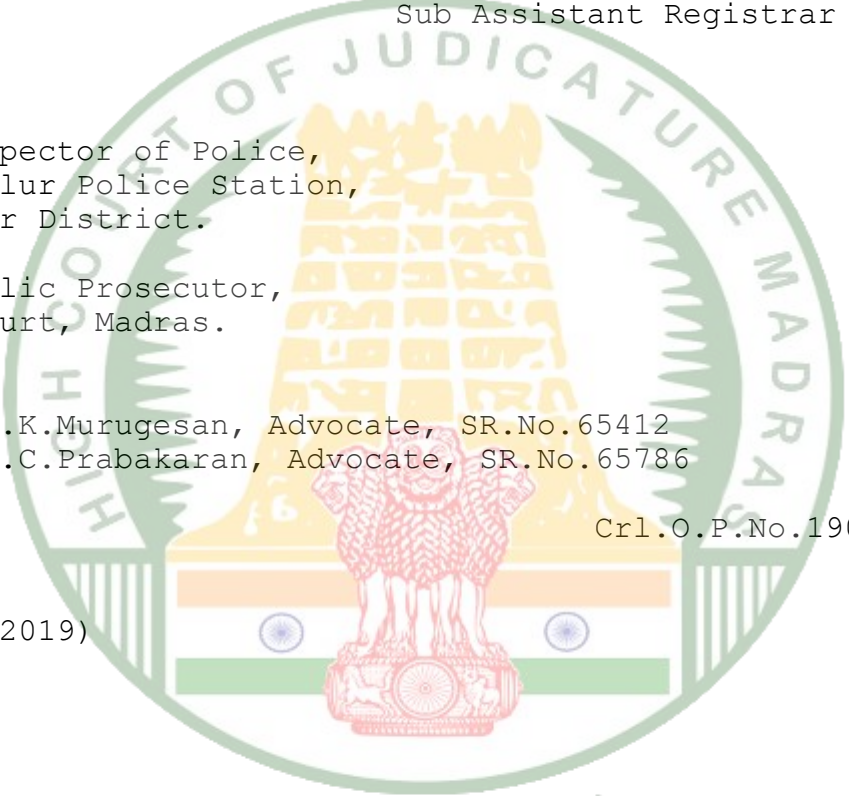
To

1. The Inspector of Police,
Keelapalur Police Station,
Ariyalur District.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Murugesan, Advocate, SR.No.65412
+1cc to Mr.C.Prabakaran, Advocate, SR.No.65786

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Kak(02/08/2019)



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