

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.R.C.No.731 of 2019

Navin Kumar,
S/o.Shri Muni Lal Yadav,
Operations Head,
Cogent Transware Solutions Private Limited,
SND Warehousing Complex,
Shed No.K1, Survey No.402/1,
C2, Kuthambakkam,
Thiruvallur. .. Petitioner

Vs.

State represented by its
Inspector of Police,
Vellavedu Police Station,
Thiruvallur District. ... Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 04.07.2019 passed in
CrI.M.P.No.2322 of 2019 on the file of the Judicial Magistrate
Court No.II, Poonamallee.

For Petitioner : Mr.Shanmugha Velayudham
Senior Counsel for
Mr.S.V.Pravinrathinam

For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(CrI.Side)

O R D E R

This petition has been filed seeking to set aside the order
dated 04.07.2019 passed in CrI.M.P.No.2322 of 2019 on the file
of the Judicial Magistrate Court No.II, Poonamallee.

2. The facts of the case in a nutshell are as under:

2.1 Cogent Transware Solutions Private Limited (hereinafter would be referred to as "Cogent Limited") are stockists of Engineering Polymers Granules, which is a raw material for the manufacture of automobile parts and therefore, they supply them to companies like Hyundai, etc, Cogent Limited noticed shortfall in their stocks and when they made discreet enquiries, it came to their knowledge that some of their staff members were engaged in pilfering the stocks clandestinely. Therefore, they lodged a complaint, pursuant to which, the respondent police registered a case in Crime No.218 of 2019 on 08.06.2019 under Section 381 IPC against Manikandan (A1), Thangamani (A2) and others.

2.2 During the course of investigation, the police arrested two accused and based on their confession statements, recovered 120 tons of the said material and reported the same to the Judicial Magistrate II, Poonamallee.

2.3 Cogent Limited filed CrI.M.P.No.2322 of 2019 in Crime No.218 of 2019 under Section 451 Cr.P.C. for interim custody of the material. The Judicial Magistrate II, Poonamallee, by order dated 04.07.2019, has granted interim custody, on condition that the property should not be alienated. Challenging the aforesaid condition, Cogent Limited is before this Court.

3. Today, V.Venkatesan, Inspector of Police, B7-Vellavedu Police Station, Thiruvallur District, is present.

4. Heard Mr.Shanmugha Velayudham, learned Senior Counsel representing Mr.S.V.Pravinrathinam, learned counsel on record for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

5. The learned counsel for the petitioner submitted that the property in question is perishable in nature and it should have to reach the purchasers on time, otherwise, it would lose its value.

6. This Court gave its anxious consideration to the submission made by the learned counsel for the petitioner.

7. At the outset, this Court places on record its appreciation to the Inspector of Police, Vellavedu Police Station, Thiruvallur District, for acting with alacrity in recovering the goods.

8. In a case of this nature, it would indeed be onerous to ask the de facto complainant to keep the property intact for marking it during trial. We cannot now say when the trial in this case will be taken up. It would a travesty of justice, if the de facto complainant is directed to preserve the property

until then. A pragmatic solution requires to be given to such vexed issues balancing the rights of the prosecution and the needs of the victim.

9. In a case of theft, it is not always necessary to prove it by actually marking the stolen object. It would suffice if an officer of Cogent Limited gives evidence before the Court that the properties were taken custody pursuant to the orders of this Court by marking a copy of the order of this Court, photographs and inventory. In this regard, the police may also record a further statement from the de facto complainant.

10. In view of the above, the order dated 04.07.2019 in CrI.M.P.No.2322 of 2019 passed by the Judicial Magistrate II, Poonamallee is modified as follows:

(i) Conditions No.2 and 4 thereon shall stand deleted;

(ii) The police and the de facto complainant shall take photographs and prepare an inventory of the items in the presence of the Magistrate, who shall certify the same. Such inventory/photographs can be marked as exhibits during trial;

(iii) A copy of this order can also be marked as an exhibit before the Trial Court.

(iv) The police shall record further statement on these aspects.

This petition stands ordered in the above terms.

Sd/-
Assistant Registrar(CO)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate II,
Poonamallee.
2. The Chief Judicial Magistrate,
Thiruvallur
3. The Inspector of Police,
Vellavedu Police Station,
Thiruvallur District.

4. The Public Prosecutor,
High Court, Madras

+lcc to Mr.S.V.Pravinrathinam, Advocate SR.No.64453

Cr1.R.C.No.731 of 2019

SAI (CO)
GMY (14/08/2019)



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