



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2019

CORAM :

THE HONOURABLE MR. JUSTICE N. SESHASAYEE

Crl.O.P.(MD)No.6358 of 2019

Vijayalakshmi

... Petitioner

/Vs./

State represented by
The Inspector of Police,
Vathalai Police Station,
Trichy District.

... Respondent

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 28.03.2017 passed in Crl.R.C.No.57 of 2016 on the file of the Sessions Judge of Trichirappalli Division, Trichirappalli by confirming the order dated 13.10.2016 passed in Crl.M.P.No.5323 of 2016 in R.P.No.04 of 2016 on the file of the Judicial Magistrate, Musiri.

For Petitioner

: Mr.V.Illanchezian

For Respondent

: Mr.V.Neelkandan

Additional Public Prosecutor

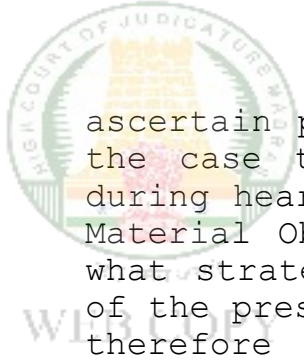
ORDER

This petition is filed to set aside the order dated 28.03.2017 passed in Crl.R.C.No.57 of 2016 on the file of the Sessions Judge of Trichirappalli Division, Trichirappalli by confirming the order dated 13.10.2016 passed in Crl.M.P.No.5323 of 2016 in R.P.No.04 of 2016 on the file of the Judicial Magistrate, Musiri.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3. A petition was filed by the petitioner for interim custody of the gold jewelry alleged to have been stolen from the petitioner's custody on 19.08.2015. Later, the Investigating Agency has recovered 39 grams of gold chain from the accused on 24.11.2015. When the petitioner moved the trial Court for interim custody of the jewelry, it was said to have been opposed by the prosecution on the ground that the accused was involved in few other cases and that jewelry needs to be identified. Acting on the said statement, the trial Court has dismissed the petitioner's prayer.

4. This Court is at a loss to understand as to how some jewelry recovered from the accused and produced by the Investigating Agency specifically in a case is opposed by the very Investigating Agency as one not identified by it yet. If however some jewelry from the accused, who is believed to have been involved in few cases, is recovered then it is the duty of the Investigating Agency to



ascertain proper identity of the jewelry and then to produce it in the case to which the jewelry relates. It is also come to know during hearing that no final report has been filed, even though the Material Object has been recovered in this case. It is not known what strategy the first respondent has viz-a-viz the investigation of the present case or the proceedings before the Court. This Court therefore allows this petition setting aside the order dated 28.03.2017 passed in Crl.R.C.No.57 of 2016 on the file of the Sessions Judge of Trichirappalli Division, Trichirappalli, and remands the matter back to the trial Court for a denova consideration of the matter and pass such appropriate orders as per law.

sd/
Assistant Registrar(records)

/True Copy/

Sub Assistant Registrar

To

1. The Sessions Judge of Trichirappalli Division,
Trichirappalli.
2. The Judicial Magistrate, Musiri.
3. The Inspector of Police,
Vathalai Police Station, Trichy District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.V.ILLANCHEZIAN, Advocate (SR-63882[F] dated
29/04/2019)

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