



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.08.2019

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

WEB COPY

Crl.RC(MD)No.442 of 2019

Velmurugan

: Revision Petitioner/A1

Vs.

State represented by
The Inspector of Police,
Elayirampannai Police Station,
Crime No.243 of 2018

: Respondent/Complainant

Prayer: Criminal Revision has been filed under Section 397 and 401 of the Code of the Criminal Procedure, against the order of the Judicial Magistrate No.1, Sattur, in Crl.MP No.708 of 2019, dated 25.04.2019 and set aside the same and direct the respondent police to hand over the petitioner's amount of Rs.50,000/-, which is kept in PR No.506 of 2018 (7th Item) in Crime No.243 of 2018.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.R.Anandha Raj
Additional Public Prosecutor

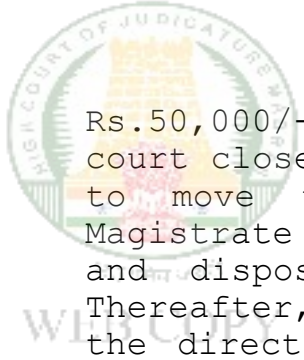
O R D E R

This Criminal Revision is directed against the order of the Judicial Magistrate No.1, Sattur, in Crl.MP No.708 of 2019, dated 25.04.2019 and to direct the respondent police to hand over the petitioner's amount of Rs.50,000/-, which is kept in PR No.506 of 2018 (7th Item) in Crime No.243 of 2018.

2.The case of the prosecution is that on 02.12.2018 at about 6.00 am, on getting information about the theft of sand in Vaipparu River, the respondent police along with police party went for inspection to Vaipparu River, which is situated in the northern side of Panaiyadipatti Bus Stop and found that the petitioner and other accused persons illegally stolen 4 Units of river sand in two lorries and two ripper lorries with the aid of JCB. On seeing the police, A5 to A8 escaped from the spot and A1 to A4 got arrested and the respondent police seized the amount of Rs.50,000/- belonging to the petitioner and 4 Units of sand, 2 lorries, 2 tipper lorries, one JCB and one Bolero Camper Car. In this regard, a case in Crime No.243 of 2018 has been registered under Sections 379 IPC, 4(1-A), and 21(1) of Mines and Minerals (Development and Regulation) Act 1957.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The petitioner filed WP(MD)No.4073 of 2019 to release the petitioner's Bolero Camper Car TN-72-AY-2764 and to hand over



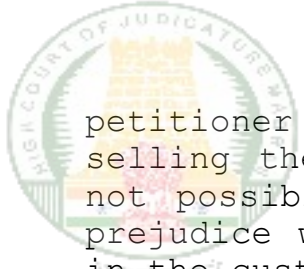
Rs.50,000/- to him, which was seized by the respondent police. This court closed the said writ petition giving liberty to the petitioner to move the Jurisdictional Magistrate and the Jurisdictional Magistrate shall entertain the application filed by the petitioner and dispose the same on merits and in accordance with law. Thereafter, on 12.04.2019, the petitioner received the vehicle on the direction of this court. However, the lower court refused to return the amount of Rs.50,000/-, which was kept in PR No.506 of 2018 (Item No.7) in Crime No.243 of 2018. Hence, the petitioner filed a petition in Crl.M.P.No.243 of 2018 before the Judicial Magistrate No.1, Sattur, to return the amount of Rs.50,000/-. The said petition was dismissed by the learned Magistrate on the ground that the petitioner had given oral confession before the respondent police that the said amount was gained by sand theft. Challenging the said order, the petitioner is before this court with this criminal revision.

4.Heard both sides and perused the materials available on record.

5.The main contention raised on the side of the revision petitioner/A1 is that the respondent police has not filed any document, except the confession of the petitioner, to show that the amount was gained by sand theft and the petitioner will not spend the amount for his own need and the petitioner undertakes to produce the money as and when required and as per the dictum laid down in the decision reported in **AIR 2003 SC 638 (Sunderbhai Ambalal Desai Vs. State of Gujarat)**, the trial court is directed to hand over the above amount to the petitioner and prays that the criminal revision has to be allowed.

6.On the other hand, the learned counsel appearing for the respondent/State argued that only on the basis of the confession, the above amount was received and in the confession, the petitioner stated that he gained the money only after he sold the sand, which was stolen by him and hence, the above amount cannot be handed over to the petitioner and if at all the said amount is handed over to the petitioner, he would use it for his own purpose and even for illegal purpose also, so, it is necessary to keep the amount in the safe custody of the court and prays that the criminal revision has to be dismissed.

7.In this case, the petitioner/accused was arrested and he gave confession and on the basis of the confession, the amount of Rs.50,000/- was recovered from him. At the time of giving confession, the petitioner stated that he obtained the above amount only after he sold the sand, which was already stolen by him. It is the contention of the petitioner that the confession was obtained by threat. But on perusal of the confession statement of the petitioner, the petitioner gave the confession voluntarily without any threat. Further, the issue whether the confession recorded is true or not is to be decided only at the time of trial. The



petitioner himself confessed that he got Rs.50,000/- by way of selling the stolen sand. Hence, under these circumstances, it is not possible to return the above amount to the petitioner and no prejudice will be caused to the petitioner, if the above amount is in the custody of the court.

8. For all the reasons stated above, the reasons stated by the petitioner are not at all acceptable. Hence, this court is of the considered view that the impugned order passed by the trial court does not require any interference by this court.

9. In the result, this criminal revision is **dismissed**.

Sd/-

Assistant Registrar()

// True Copy //

Sub Assistant Registrar(CS)

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To,

1. The Judicial Magistrate No.1,
Sattur.

2. The Inspector of Police,
Elayirampannai Police Station.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Cr1.RC.(MD) No.442 of 2019
06.08.2019

SV-II(CO)
TR(21.11.2019) 3P 4C