



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.12.2019**

CORAM

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

Crl.R.C(MD)No.919 of 2019

Jebakani

... Petitioner / Petitioner

Vs.

State rep by
The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
(Crime No.414 of 2014)

... Respondent / Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the learned Judicial Magistrate, Sathankulam in Cr.M.P.No.7554 of 2019 dated 13.09.2019 and set aside the same and further direct the learned Judicial Magistrate, Sathankulam to grant interim custody of the gold ingot to the petitioner.

For Petitioner : Mr.R.Ponkarthikeyan

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.side)

O R D E R

This petition has been filed to quash the proceedings in Cr.M.P.No.7554 of 2019 dated 13.09.2019 on the file of the learned Judicial Magistrate, Sathankulam.

2. The learned counsel for the petitioner submitted that on 19.10.2014 at about 15.30 hours, when the petitioner was going to her home from CSI Church, Sathankulam, some unknown persons robbed 9 sovereigns gold chain from her and fled away. The petitioner lodged a complaint before the respondent police and a case has been registered in Crime No.414 of 2014 for the offence under Section 392 of IPC, against the unknown persons. He further submitted that thereafter, one of the accused person namely Parvathimuthu @ Petchimuthu was arrested by the Meignanapuram police and 40 grams



gold ingot was recovered from him and the same was produced before the learned Judicial Magistrate Court, Sathankulam.

3. Since the petitioner is the owner of the said gold, she filed a petition in Cr.M.P.No.12314 of 2015 before the learned Judicial Magistrate Court, Sathankulam, under Section 451 of Cr.P.C., for seeking interim custody of the said gold ingot. Though the respondent police has said no objection for the interim custody to the petitioner, the learned Judicial Magistrate, Sathankulam, dismissed the application on 04.01.2016 that the recovered property is in ingot and there is a difference between the weight of gold items mentioned in the complaint and there is a difference between the weight of gold items mentioned in the complaint and the gold ingot seized by the police, therefore, it could not be identified at present stage.

4. He further submitted that even after 5 years, there is no progress in prosecution side, once again, the petitioner moved a very same petition before the Judicial Magistrate Court, Sathankulam, in Cr.M.P.No.7554 of 2019 for the very same relief. The learned Judicial Magistrate, Sathankulam, dismissed the said application on 13.09.2019 by saying the very same reason. Challenging the said order, the petitioner filed this present petition.

5.The learned Government Advocate (Crl.Side) submitted that counter affidavit was filed by the respondent police that 40 grams of gold ingot recovered in this case is under the custody of the Court of Judicial Magistrate, Sathankulam, and there is no use of keeping the property of gold ingot in the custody of the Court. Hence, they have no objection to hand over the recovered property of 40 grms gold ingot to the petitioner herein for interim custody till the disposal of the case.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.Mr.A.P.G.Ohm Chairma Prabhu, learned Government Advocate (Crl.side) has strongly objected to return the jewels to the petitioner.

8. On consideration of the documentary evidence, the Trial Court has dismissed the petition seeking to return the gold ingot filed by the petitioner. However, Considering the facts and circumstances of the case, this Court is inclined to allow this petition.

9. Accordingly, this petition is allowed on condition that the petitioner shall deposit a sum of Rs.30,000/- (Rupees Thirty Thousand Only) before the learned Judicial Magistrate Court, Sathankulam, to the credit of Cr.No.414 of 2014 on the file of the



respondent police. On such deposit, the learned Judicial Magistrate Court, Sathankulam is directed to return the gold ingot weighing about 40 grams to the petitioner, as interim custody imposing such other conditions the learned Magistrate thinks proper.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate,
Sathankulam.

2.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

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

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate (SR-106068[F] 19/12/2019)

Cr1.R.C(MD)No.919 of 2019
19.12.2019

dss

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