

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.R.C.No.513 of 2020

Sudhan Palanisamy,
S/o.Palanisamy,
5A, AVP Layout, 3rd Street,
Gandhi Nagar,
Tiruppur - 641 603.

...Petitioner/3rd party

Vs.

State of Tamil Nadu represented by
The Inspector of Police,
Salem City, Central Crime Branch,
Ammamet Town Police Station Road,
Ammamet, Salem - 636 004.

..Respondent/complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 12.03.2020 passed in C.M.P.No.543
of 2020 in Crime No.18 of 2019 on the file of the Judicial
Magistrate Court No.II, Salem.

For Petitioner : Mr.B.Surendhar
For Respondent : Mr.K.Madhan
Government Advocate
(Cr1.Side)

O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set
aside the order dated 12.03.2020 passed in C.M.P.No.543 of 2020
in Crime No.18 of 2019 on the file of the Judicial Magistrate
Court No.II, Salem.

3. On the complaint lodged by Gurusamy, the
respondent/police registered a case in Crime No.18 of 2019 on
17.10.2019 for the offences under Sections 420 and 506 (i) IPC
against Manivannan (A1) and his wife Indhumathi (A2).

4. The sum and substance of the FIR is that Manivannan (A1) and Indhumathi (A2) had promised the de facto complainant and others that if they invest money in their company, they will get twice the amount as return in one year. On this representation, the de facto complainant and his friends deposited monies on various dates with Manivannan (A1) and Indhumathi (A2) to the tune of Rs.34,60,000/- and that the accused did not keep up their promise and instead returned only Rs.7,00,000/-.

5. During the course of investigation of the case, the police seized the passport of the petitioner herein, who has not been named in the FIR. The petitioner filed an application in C.M.P.No.543 of 2020 in CCB PS Crime No.18 of 2019 before the Judicial Magistrate No.II, Salem, under Section 451 Cr.P.C. for return of his passport, which was dismissed on 12.03.2020, aggrieved by which, the petitioner is before this Court.

6. This Court heard Mr.B.Surendhar, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl.Side) for the respondent/State and also perused the impugned order.

7. The Magistrate has rightly held that the passport of a person can be impounded only in terms of Section 10 (3) of the Passport Act, 1967 and cannot be detained by the police without good reasons thereof. However, the Magistrate has dismissed the petition on the ground that the petitioner had not got into the witness box and examined himself as witness. It is not in dispute that the passport seized by the police belongs to the petitioner. Under such circumstances, it may not be necessary for the petitioner to get into the witness box and give evidence in an enquiry under Section 451 Cr.P.C. If the Magistrate has any doubt about the identity of the petitioner, it is always open to the Magistrate to call the Investigating Officer for appropriate identification. That apart, for the investigation of the allegations, as to whether Manivannan (A1) and Indhumathi (A2) has cheated the de facto complainant and others, the passport of the petitioner may not have any bearing.

8. As a result, this criminal revision is allowed by setting aside the order dated 12.03.2020 passed in C.M.P.No.543 of 2020 in Crime No.18 of 2019 on the file of the Judicial Magistrate Court No.II, Salem, with the following directions:

- (i) the respondent/police shall hand over the passport of the petitioner to the Judicial Magistrate No.II, Salem immediately, if not handed over earlier;

(ii on such handing over, the same shall be entered
) with the appropriate register;

(ii thereafter, the passport shall be handed over to
i) the petitioner on he executing a bond for a sum of
Rs.10,000/- with two sureties to the satisfaction
of the Judicial Magistrate No.II, Salem, to the
effect that the petitioner will show the passport
to the Investigating Officer as and when required
in writing, pending investigation and take it back.
It is open to the petitioner to surrender the
passport to the Regional Passport Officer for the
purpose of renewal, if required; and

(iv before handing over the passport a photocopy of
the same shall be retained by the Court and the
Investigating Officer in his case diary.

-s/d-
Assistant Registrar

True copy

Sub-Assistant Registrar

nsd

To

1. The Judicial Magistrate No.II,
Salem.
- 2.The Chief Judicial Magistrate Salem
3. The Inspector of Police,
Salem City, Central Crime Branch,
Ammapet Town Police Station Road,
Ammapet, Salem - 636 004.

4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+1 cc to Mr.S.V.Pravin Rathinam Advocate sr5750

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