



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P. (MD) .No.2983 of 2020

Dinesh

..Petitioner

Vs.

The State Rep by  
The Inspector of Police,  
S.S.Colony Police Station,  
Madurai.  
(Crime No.366 of 2018)

..Respondent

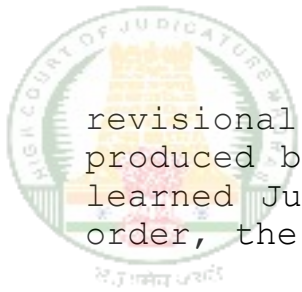
**PRAYER:** This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order in Crl.R.P.No.84 of 2018 dated 11.07.2019 passed by the learned VI Additional District Sessions Judge, Madurai by confirming the order in Cr.M.P.No.3021 of 2018, dated 17.10.2018 passed by the learned Judicial Magistrate No.V, Madurai and set aside the same.

|                |                              |
|----------------|------------------------------|
| For Petitioner | : Mr.K.Navaneetharaja        |
| For Respondent | : Mr.S.Chandrasekar          |
|                | Additional Public Prosecutor |

### **O R D E R**

This criminal original petition has been filed to set aside the order made in Crl.R.P.No.84 of 2018 dated 11.07.2019 passed by the learned VI Additional District Sessions Judge, Madurai by confirming the order in Cr.M.P.No.3021 of 2018, dated 17.10.2018 passed by the learned Judicial Magistrate No.V, Madurai.

2.The learned counsel appearing for the petitioner would submit that on the complaint given by one Latha, a case in Crime No.366 of 2018 has been registered against the petitioner and others for the offences under Sections 448, 392, 342, 506(ii) and 120(B) of IPC. The respondent police has falsely taken jewels from him stating that they are stolen property. Thereafter, he had filed a petition in Crl.M.P.No.3021 of 2018 under Section 451 Cr.P.C., seeking to return the jewels stating that the jewels recovered from him were his own property, which was purchased by his own income. The learned Magistrate by order dated 17.10.2018, dismissed the said petition. Against which, the petitioner had filed a revision petition in Cr.R.P.No.84 of 2018 and the



revisional Court without taking into consideration the documents produced by the petitioner, had confirmed the order passed by the learned Judicial Magistrate No.V, Madurai. Against the dismissal order, the present petition has been filed.

3.I have gone through the order of the learned Judicial Magistrate No.V, Madurai, dated 17.10.2018 wherein he had observed as follows:

*"Therefore, considering the facts and circumstances and also the reply given in the prosecution, this Court is of the view that the ownership of the gold ingot has not yet ascertained by the prosecution. The petitioner/accused has given a contradictory allegation against the confession statement. Further, the case is under investigation. If the property it is kept under safe custody by this Court, the value of the property will be appreciated and will not depreciated. There is clear admission in the confession statement given by the petitioner/accused as the gold ingot was thefted jewels from various places and the same is signed by the accused and witnesses. Therefore, at this stage the claim of the petitioner/accused as if he is the owner of the property cannot be decided at this present stage and it will be decided only at the time of full fledged trial.*

*Hence, this Court cannot conclude at the present stage whether the 73 sovereign of gold ingot recovered by the petitioner belongs to the petitioner/accused. Hence, this petition is dismissed. "*

4.As against the said order of dismissal, the petitioner had filed a revision in Crl.R.P.No.84 of 2018 and it was dismissed by the learned VI Additional District and Sessions Judge, by order dated, 11.07.2019.

5.This Court had gone through the order passed by the learned Judicial Magistrate as well as Sessions Court. Both the Courts have held that the ownership of the gold ingot has not yet been ascertained by the prosecution. Further, the petitioner has given contradictory allegation against the confession statement and thereby, both the trial Court as well as the appellate Court dismissed the same. This Court does not find any infirmity or illegality in the order passed by the Court below.



6.At this juncture, the learned Additional Public Prosecutor appearing for the respondent police would submit that investigation has been completed and the same has been pending committal in P.R.C.No.304 of 2019. He would further submit that the petitioner is having three more cases . All the cases are under investigation.

7.Taking into consideration of the submission made by the learned Additional public Prosecutor, this criminal Original Petition is dismissed. However, the petitioner is at liberty to renew his application with necessary proof at the appropriate stage.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

1.The VI Additional District Sessions Judge,  
Madurai.

2.The Judicial Magistrate No.V,  
Madurai.

3.The Inspector of Police,  
S.S.Colony Police Station,  
Madurai.

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

+1 CC to M/s.K.NAVANEETHARAJA, Advocate ( SR-7424[F] dated  
20/02/2020 )

Cr1.O.P. (MD) .No.2983 of 2020  
20.02.2020

MA (CO)

TR(29.05.2020) 3P 6C