



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 05.10.2020
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.539 of 2020

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Muthukumar

.. Petitioner

Vs.

State rep. by
The Inspector of Police,
Thiruvengadam Police Station,
Tenkasi District.
(Crime No.256/2019)

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records made in Cr.M.P.No.1178 of 2020 on the file of the learned Judicial Magistrate, Sankarankovil, filed by the petitioner under Section 451 of Cr.P.C. for return of four feet idol of Muthuramalinga Thevar and to set aside the dismissal order dated 08.09.2020.

For Petitioner : Mr.S.Gokulraj

For Respondent : Mrs.S.Bharathi
Government Advocate

ORDER

This Criminal Revision Case has been filed to set aside the order dated 08.09.2020, made in Cr.M.P.No.1178 of 2020 on the file of the learned Judicial Magistrate, Sankarankovil and to return the statue of Muthuramalinga Thevar to the petitioner.

2. On the side of the petitioner, it is stated that the petitioner claiming as the representative of the villagers of Umayathalaivanpatti, filed a petition for return of a cement statue of Muthuramalinga Thevar, which was seized by the police, in Crime No.256 of 2019, under Sections 143, 286, 353 IPC, before the Judicial Magistrate, Sankarankovil, in Cr.M.P.No.1178 of 2020. That petition was dismissed by the learned Judicial Magistrate, on 08.09.2020. Against the same, the petitioner preferred this Criminal Revision Case.



3. On the side of the petitioner, it is stated that the petitioner is the owner of the statue and the statue is made of cement. If the property / statue is kept in the open place, the statue will be damaged due to rain and sun and prayed the statue to be returned to the petitioner for interim safe custody.

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4. On the side of the prosecution, it is stated that the Village Administrative Office gave a complaint against the petitioner and others for taking the statue in procession, without proper permission and that they fired crackers during the procession. If the property / statue is handed over to the petitioner for interim custody, there is every possibility for installing the statue in a public place, which may cause law and order problem. A peace committee proceedings was also initiated between two rival community in the village. If the statue is handed over to the petitioner, it may not be possible to produce the same at the time of the trial and she objected to the return of the statue to the petitioner.

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

6. The case against the petitioner is that without proper permission and without adhering to the Rules, he conducted procession. It is stated that there is a law and order problem between two communities. If the statue is kept in open place, there is a chance for the statue to get damage.

7. In the above circumstances, this Court is inclined to allow the petition with certain conditions. Accordingly, this Criminal Revision Case is allowed and the order passed in in Cr.M.P.No.1178 of 2020, dated 08.09.2020, on the file of the learned Judicial Magistrate, Sankarankovil, is set aside and the property / statue is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(i) The petitioner shall deposit a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** to the credit of Crime No.256 of 2019 on the file of the learned Judicial Magistrate, Sankarankovil, along with a bond for **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties for a like sum

(ii) The petitioner has to file an affidavit undertaking not to take the statue for procession or to install the statue before the disposal of the case;

(iii) The petitioner shall not make any alienation or alterations in the statue.



(iv) The petitioner is directed to produce the statue before the Court and before the respondent as and when required, by the Court and by the respondent.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate,
Sankarankovil.
2. The Inspector of Police,
Thiruvengadam Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. GOKULRAJ, Advocate (SR-18928[F] dated 05/10/2020)

Crl. R.C. (MD)No.539 of 2020
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