



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.12.2020

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WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.689 of 2020

M.Ananth

.. Petitioner

Vs.

The Union of India through,
The Inspector of Police,
Railway Protection Force Police Station,
Thoothukudi District.
(Crime No.349 of 2019)

.. Respondent

Prayer : This criminal revision case filed under Sections 397 & 401 of Cr.P.C., to call for the records pertaining to the order of the Judicial Magistrate No.IV, Thoothukudi passed in Crl.M.P.No.2650 of 2020 and to set aside the same and consequently direct the respondent to return the property to the petitioner in P.R.No.29 of 2020.

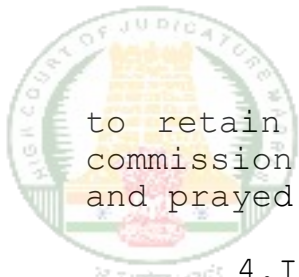
For Petitioner	: Ms.N.Sumitha
For Respondent	: Mrs.S.Bharathi
	Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.2650 of 2020 dated 16.10.2020, on the file of the learned Judicial Magistrate No.IV, Thoothukudi, for return of the properties to the petitioner.

2.The petitioner claims to be the owner of the mobile phone, CPU and modem, which were seized by the respondent Police in Crime No.349 of 2019 for the offence under Section 143(1)(a) of Railway Act, 1989. The petitioner has filed a petition in Cr.M.P.No.2650 of 2020 before the learned Judicial Magistrate No.IV, Thoothukudi for return of the properties. The petition was dismissed by the trial Court. Against which, the petitioner has preferred this revision case.

3.On the side of the petitioner, it is stated that the properties in P.R.No.29 of 2020 are all electronic items. It will be useless, if they are not used for a long time. There is no necessity



to retain the properties. The properties are not involved in the commission of crime. The data storage can be saved in another system and prayed the properties to be returned to the petitioner.

4.In support of his contention, the judgment passed by this Court in the case of ***Prabhu Singh v. The Sub Inspector of Police*** in ***Crl.R.C. (MD)No.166 of 2018*** is cited.

5.On the side of the respondent, it is stated that the above cited case is regarding a case of theft of mobile phone. The present case is different from that case. The petitioner misrepresented and committed theft of personal I.D. He sold railway tickets by using this I.D., and the properties are necessary to be sent to the Forensic Department for examination and prayed the petition to be dismissed.

6.It is seen that the case properties are alleged to have been used for the commission of the offence. The investigation is not yet over. Since the offence is a cyber crime, the properties are necessary to be sent to the Forensic Department for further investigation. There may be a dispute regarding the source of data at the time of trial. Hence, this Court is not inclined to return the properties to the petitioner at the present stage.

7.In view of the above, this Criminal Revision Case is dismissed at present and the order passed in Cr.M.P.No.2650 of 2020 dated 16.10.2020, on the file of the learned Judicial Magistrate No.IV, Thoothukudi is confirmed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

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 No.IV, Thoothukudi.



2.The Inspector of Police,
Railway Protection Force Police Station,
Thoothukudi District.

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

+1cc to Ms.N.Sumitha, Advocate Sr.No.26314

Crl. R.C.(MD)No.689 of 2020

17.12.2020

VB (07.01.2021) 3P 5C