



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.363 of 2021

Thangaraj Singh @ Thangaraj ... Petitioner/Sole Accused

Vs.

State rep by Inspector of Police,
Gudiyatham Town Police Station,
Gudiyatham, Vellore District. ... Respondent/Complainant
(Crime No.1654 of 2020)

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate, Gudiyatham, Vellore District in Crl.M.P.No.2045 of 2020 in Crime No.1654 of 2020, dated 05.12.2020.

For Petitioner : Mr.S.Suresh

For Respondent : Mr.S.Sugendran
Government Advocate (Criminal Side)

O R D E R

The present Criminal Revision Case has been filed against the order dated 05.12.2020, passed by the learned Judicial Magistrate, Gudiyatham, dismissing the petition filed under Section 451 of Cr.P.C, seeking return of country made gun to the petitioner.

2. The case of the prosecution is that some one had damaged the decorative light fittings of the Mosque and regarding that, one Firose Ahamed lodged a complaint and a case was registered in Crime No.1654 of 2020 and based on which, everyone in and around the area was enquired by the respondent-Police and during the course of enquiry, the petitioner was taken to Police Station for enquiry, in the course of it, the country made gun was seized by the respondent-Police. Hence, the petitioner has moved Crl.M.P.No.2045 of 2020, before the Judicial Magistrate, Gudiyatham. Such petition came to be dismissed under orders of the Court below dated 05.12.2020. Hence, this revision.



3. The learned counsel for the petitioner would submit that a false case has been foisted against the petitioner and unless and until, the country made gun is returned, he will be put to great hardship disgrace and sufferings. It is further submitted that if the gun is kept in the custody, it will become rusty and useless in future. However, the learned Judge, erroneously rejected the petition filed under Section 457 r/w 451 of Cr.P.C. and hence, prays to set-aside the order passed by the Court below.

4. The learned Government Advocate (Criminal Side) would submit that at the time of passing order by the learned Judicial Magistrate, investigation was pending and no charge sheet was filed and now, it is represented that the investigation was completed and the charge sheet has also been filed, which is to be taken on file.

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

6. The allegation against the petitioner is that while he was aiming to shoot a cat in the country made gun, the shot mistakenly fall on the decorative light fittings of the Mosque and due to which, a complaint was given by one Firose Ahamed. After enquiry, the country made gun of the petitioner was seized by the respondent-Police.

7. It is to be noted that at the time of passing order by the learned Magistrate, Gudiyatham, investigation was pending and charge sheet was not filed, however, now, it is represented by the learned Government Advocate (Criminal Side) that the investigation was completed and the charge sheet has already been filed, which is to be taken on file. Therefore, the petitioner is at liberty to file a petition and raise his all grounds before the trial Court, if such petition is filed, the learned Magistrate, Gudiyatham is directed to consider the same and pass orders on merits and in accordance with law.

8. With the above directions, this Criminal Revision Case is disposed of.

Sd/-
Assistant Registrar (IX)

//True copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate, Gudiyatham,
Vellore.

2.The Inspector of Police,
Gudiyatham Town Police Station,
Gudiyatham, Vellore District.

3.The Public Prosecutor,
Madras High Court.

Cr1.R.C.No.363 of 2021

RSI (CO)
GMV (15/07/2021)