



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C. No. 586 of 2019
and
Crl.R.C. No. 534 of 2021

Crl.R.C.No.586 of 2019:

Kalaimani

... Petitioner

Versus

1.State Represented by its,
Inspector of Police,
CCB, Salem City,
(Crime No.2 of 2018)

2.Selvaprakash

3.Babusankar

4.Manivasagm

5.Arunkumar

6.Ravi Magizhmisin Merugu

7.Muthukumar

8.Kannan

... Respondents

[R2 to R8 are impleaded as per order
in Crl.MP.No.13514/2019, dt.19.09.2019]

Crl.R.C.No.534 of 2021:

Kalaimani

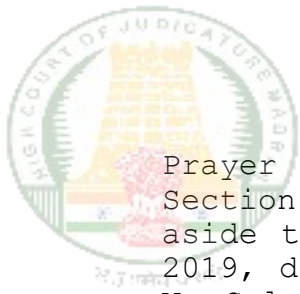
... Petitioner

Versus

1.State Represented by its,
Inspector of Police,
CCB, Salem City,
(Crime No.2 of 2018)

2.M.Arunkumar

... Respondents



Prayer in Crl.R.C.No.586 of 2019: Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order made in Crl.M.P.No.1471 of 2019 in C.C.No.52 of 2019, dated 14.06.2019, on the file of the Judicial Magistrate - V, Salem and direct to return the 75 Kgs of Pure Silver to the petitioner.

Prayer in Crl.R.C.No.534 of 2021: Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order made in Crl.M.P.No.715 of 2018, dated 13.07.2018, on the file of the Judicial Magistrate - V, Salem and pass appropriate order to share the recovered Silver 222.5 Kgs out of 500 Kgs proportionately to the all De-facto complainants.

For Petitioner : M/s.Sathish Kumar
(in both cases)

For Respondents : Mr.S.Sugendran (for R1 both cases)
(Govt. Advocate Crl.Side)
: Mr.S.D.Manivasagam
(for R2 to R4 in Crl.RC.586/2019)
: Mr.S.Kalyanaraman - R5
NA - for R6 to R8

COMMON ORDER

Criminal Revision Petition No.586 of 2019 is filed, to set aside the order made in Crl.M.P.No.1471 of 2019 in C.C.No.52 of 2019, dated 14.06.2019, on the file of the Judicial Magistrate - V, Salem and to direct return of 75 Kgs of Pure Silver to the petitioner.

2.Criminal Revision Case No.534 of 2021 is filed to set aside the order made in Crl.M.P.No.715 of 2018, dated 13.07.2018, on the file of the Judicial Magistrate - V, Salem and to pass appropriate order to share the recovered Silver weighing 222.5 Kgs out of 500 Kgs proportionately to the all De-facto complainants.

3. The respondent/police registered the case in Crime No.2 of 2018 against the accused persons, on the basis of complaint given by the eight persons including the petitioner herein. After investigation, the respondent/ police laid a charge sheet and the same was taken on file by the Judicial Magistrate No.V, Salem in C.C.No.52 of 2019. During investigation, the accused persons were arrested and 222.5 kilograms of silver were recovered out of 523 kilograms of silver.



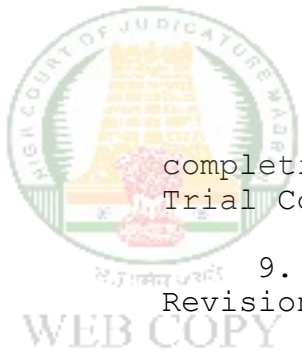
4. While so, the petitioner and three others filed a petition in Crl.M.P.No.752 of 2018 and one of the defacto complainants namely Arunkumar filed a petition in Crl.M.P.No.715 of 2018 before the learned Judicial Magistrate-V, Salem, for return of property. The Trial Court dismissed both the petitions on 03.03.2018. Challenging the same, the second respondent in Crl.R.C.No.534 of 2021 namely Arunkumar filed Crl.R.C.No.489 of 2018 before this Court. By order dated 11.06.2018, this Court allowed the second respondent's Criminal Revision Case and remitted the matter to the Trial Court. Subsequently, Crl.M.P.No.715 of 2018 filed by the second respondent/Arunkumar was reopened and by order dated 13.07.2018, the trial court directed the investigation officer to return the 120 kilograms of Silver to the said Arunkumar, second respondent in Crl.R.C.No.534 of 2021. Challenging the order dated 13.07.2018, Crl.R.C.No.534 of 2021 is filed.

5. By order dated 28.07.2021, this Court called for status report of C.C.No.52 of 2019 from the Trial Court and the same has been received. Subsequently, the respondent/police has also filed a detailed status report including Form-91.

6. It is seen that there are totally eight de-facto complainants and the charge sheet was filed on the basis of the complaints given by them. While so, the petitioner, who is one of the de-facto complainants, has filed Crl.R.C.No.586 of 2019 for return of property to him, which cannot be granted, pending trial. Therefore, this Court is not inclined to entertain the Criminal Revision Case No.586 of 2019 filed by the petitioner. Crl.R.C. No. 586 of 2019 is liable only to be dismissed.

7. It is evident that the petitioner along with others have filed C.M.P. No. 752 of 2018 for return of property. Similar petition in Crl.M.P.No.715 of 2018 for return of property was filed by one of the defacto complainants namely Arunkumar/second respondent in Crl.R.C.No.534 of 2021. But the learned Judicial Magistrate No.V, Salem passed an order dated 13.07.2018, directing to return 120 kilograms of silver to Arun Kumar/Second Respondent in Crl.R.C.No.534 of 2021 with certain conditions. Challenging the said order, Crl.RC.No.534 of 2021 has been filed before this Court. When there are 8 defacto complainants, the Trial Court cannot direct return of articles to one of them. Therefore, the order dated 13.07.2018 passed in Crl.M.P. No. 715 of 2018 is set aside and Crl.R.C. No. 534 of 2021 is allowed.

8. The learned Judicial Magistrate-V, Salem, is directed to complete the trial in C.C.No.52 of 2019, within a period of four months from the date of receipt of a copy of this order. The petitioner is at liberty to take his articles, after



completion of trial, subject to the order to be passed by the Trial Court.

9. With the above observation and directions, the Criminal Revisions are disposed of.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

klt

To

1.The Inspector of Police,
CCB, Salem City,

2.The learned Judicial Magistrate No.V,
Salem.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Nambiselvan, Advocate Sr No.44056

+1cc to Messrs.S.Kalyanaraman, Advocate Sr No.43829

CrI.R.C. No. 586 of 2019
and
CrI.R.C. No. 534 of 2021

SR II (CO)
PR (06/10/2021)