



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1171 of 2020

Jeeva

...Petitioner

Vs.

State by,
The Sub Inspector of Police,
Rathinagiri Police Station,
Vellore District.
(Crime No.153 of 2019)

...Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 20.10.2020 passed by the District Munsif cum Judicial Magistrate, Arcot, Vellore District in Crl.M.P.No.149 of 2020 in Crime No.153 of 2019 pending on the file of the Respondent police and direction may be issued to hand over the sum of Rs.8,00,500/- that was seized from the petitioner.

For Petitioner : Mr.D.Thirumoorthy

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

O R D E R

The Criminal Revision has been filed against the dismissal of the petition seeking interim custody of the cash seized by the Respondent Police in Crime No.153 of 2019 under Section 171 (E) IPC.

2. The submissions of the learned counsel appearing for the petitioner are as under :-

(i). The petitioner had obtained Rs.8,00,000/- (cash) as loan from one N.Velu for the purpose of construction of new house in Door.No.91, Arungundram Village, Walaja Taluk on 19.04.2019. While the petitioner was returning with the said cash via Government School, Kavaripalayam Village, the police intercepted the petitioner and seized the amount of Rs.8,00,000/- along with Rs.500/-, which was in possession of him under Section 171(E) IPC, on the ground that the amount was to be meant for distribution to the voters in election. The petitioner had borrowed the amount from one N.Velu, the said



Velu had withdrawn the cash on 15.04.2019 from his Current Account of M/s.Velu Traders in Vijaya Bank, Arcot branch.

(ii) The petitioner had filed an Application for interim custody/return of cash in Crl.M.P.No.149 of 2020 before the learned District Munsif cum Judicial Magistrate, Arcot. The petitioner would also submitted two documents viz., the account statement of M/s.Velu Traders showing transfer of Rs.9,90,000/- to the savings account of said Velu on 15.04.2019 and the petitioner had also produced the xerox copy of promissory note executed by the petitioner in favour of Velu on 19.04.2019, for having borrowed a sum of Rs.8,00,000/-, however, the Trial Court, finding that there is overwriting in the promissory note and that seizure was effected 16.04.2019 itself and the police have registered a case in C.S.R.No.167/2019 on 16.04.2019 itself, dismissed the petition holding that the petitioner had not come to Court with clean hands. Further, the Court also found that if the cash is returned to the petitioner, it would be difficult to make it available at the time of Trial.

(iii) The petitioner is prepared to abide by any stringent condition imposed by this Court and undertakes to return the cash before the Trial Court as and when required by the Trial Court for the purpose of Trial and prayed to set aside the order and to return back the cash seized from the petitioner by the Respondent Police.

3. Per contra, learned Government Advocate (Crl.Side) would submit that in this case, on 16.04.2019, on specific information that some persons were attempting to give money to the voters, the police had intercepted the petitioner and the petitioner was found to be in possession of Rs.8,00,000/- in cash and when enquired, he was unable to furnish proper explanation for possession of cash and it had been recovered from him on the same day, however, he did not make any complaint/representation to the authorities concerned immediately that the money belongs to him and that it was borrowed from one Velu and only in the Trial Court, the petitioner has produced the copies of bank statement showing that the Velu had transferred the amount of Rs. 9,90,000/- from his current account of Velu Traders to his savings account and thereafter, the amount was given as loan to the petitioner. He further submit that the petitioner also produced a xerox copy of the promissory note alleged to have been executed by him.

4. Learned Government Advocate further submit that the Trial Court, finding that there were overwriting in the promissory note, disbelieved the same and the Trial Court also found that if the cash is returned to the petitioner, it would not be produced at the time of Trial and the final report has been



taken on the file in STC.No.13/2021 and five witnesses had been examined and that there is a every chance for conclusion of the trial in this case at the earliest and the case is now posted on 07.01.2022.

WEB COPY

5. Heard the learned counsel appearing for the parties.

6. In this case the petitioner claims that he is the owner of the cash. He had filed an Application for return of the same and filed some documents in support of his claim. The Trial Court having found some over writings in the promissory note produced by the petitioner in support of his claim and disbelieved the documents produced by the petitioner and dismissed the petition. Now it is reported that final report has been filed and the case is listed for hearing on 07.01.2022. This Court does not find any infirmity in the order passed by the Trial Court and accordingly, the Criminal Revision stands dismissed.

7. However, the Trial Court concerned is directed to complete the trail as expeditiously as possible, preferably within 3 months from the date of receipt of a copy of this order and if the petitioner is able to succeed in the trial, he is a liberty to file a petition seeking for return of property, which would be considered by the Trial Court after disposal of the case.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

ham

To

1. The District Munsif Cum Judicial Magistrate
Arcot, Vellore District.
2. The Sub Inspector of Police,
Rathinagiri Police Station,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.S.P.Arthi, Advocate, S.R.No.68916

Cr1.R.C.No.1171 of 2020

SPD(CO)

RGA(06/01/2022)