



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.887 of 2021

Vicky @ Vignesh

... Petitioner/Sole Accused

Vs.

State rep. by
The Inspector of Police,
W-21, All Women Police Station,
Guindy, Chennai.

... Respondent/Complainant

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 22.09.2021 made in Crl.M.P.No.555 of 2021 on the file of learned Sessions Judge, Special Court for Exclusive Trial of case under POSCO Act, Chengalpattu for return of property of the Mobile Phone viz., to the petitioner herein and consequently direct the respondent police to return the Cell Phone viz., Vivo S-I Pro in Crime No.18 of 2021 to the petitioner.

For Petitioner:Mr.P.G.Santhosh kumar

For Respondent: Mr.S.Sugendran
Government Advocate [Crl. Side]

O R D E R

This Criminal Revision has been filed against the dismissal of the petitioner filed seeking for interim custody of the property.

2. The learned counsel for the petitioner would submit that the petitioner is the sole accused in Crime No.18 of 2021 registered by the respondent for the offence Under Section 3 and 4 of POCSO Act, 2012. During the course of the investigation, the respondent had seized the mobile phone Vivo S1 Pro from the petitioner and it was sent for analysis and the analysis had been completed and thereby, the petitioner had filed an application



seeking for return of mobile phone. However, the learned Magistrate had dismissed the application stating that the cell phone is the vital piece of evidence and it is the evidence for trial. The learned counsel for the petitioner would submit that the petitioner undertakes that the mobile would be produced before the Trial Court during the course of the investigation.

3. Per Contra, Mr.S.Sugendran, learned Government Advocate (crl.side) appearing respondent would submit that the petitioner is the sole accused in Crime No.18 of 2021 registered by the respondent for the offence Under Section 3 and 4 of POCSO Act, 2012. The allegation against the petitioner is that the petitioner had kidnapped the victim girl XXX from the custody of her parents that and prior to that he had contacted the victim girl through the cell phone and the cell phone is the vital piece of evidence. He would submit that the investigation is still pending. The cell phone is essential for the purpose of investigation and identification and it has to be marked as material object during the course of trial and if the mobile phone is returned to the petitioner, there is every possibility of mobile phone being tampered with and there is every possibility of the respondent not producing the mobile before the Trial Court, which would prejudice the respondent. He would submit that the learned Magistrate had rightly dismissed the application.

4. Heard both sides and perused the materials available on record.

5. Taking into consideration the facts and submissions made and that it is stated that the mobile phone is the vital piece of evidence required in this case, I do not find any infirmity in the order passed by the learned Judge.

6. In view of the above, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

vri/shk



To

1. The learned Sessions Judge,
Special Court for Exclusive Trial of
case under POSCO Act,
Chengalpattu.

2. The Inspector of Police,
W-21, All Women Police Station,
Guindy, Chennai.

3. The Hon'ble POSCO Committee,
High Court, Madras.

4. The Public Prosecutor,
High Court, Madras.

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RSI (CO)
CB(15/12/2021)