



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2021
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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.Nos.1371 and 1373 of 2019

G.Vamshidhar Reddy ...Petitioner in Crl.R.C.No.1371/2019
V.Padmanaban ...Petitioner in Crl.R.C.No.1373/2019

Vs.

1. The Sub Inspector of Police,
C-3, Seven Wells Police Station,
Flower Bazaar, Chennai.
...1st respondent in Crl.R.C.No.1371/2019 and
sole respondent in Crl.R.C.No.1373/2019
2. The Inspector of Police,
Central Crime Branch, EDF-I,
1st Floor, Room NO.1C,
Office of the Commissioner of Police,
Vepery, Chennai 600 007.
(R2 is impleaded as per order in Crl.M.P.No.2524 of 2020 in
Crl.R.C.No.1371 of 2019 dated 26.02.2020)
.. 2nd Respondent in Crl.R.C.No.1373/2019

COMMON PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C read with Section 401 Cr.P.C. of the Code of Criminal Procedure, against the order dated 14.11.2019 and 18.11.2019 made in Crl.M.P.Nos.11867 and 11868 of 2019 on the file of the VIII Metropolitan Magistrate, George Town, Chennai.

For Petitioner in
Crl.R.C.No.1371/2019 : Mr.AR.Karthik Lakshmanan.

For Petitioner in
Crl.R.C.No.1373/2019 : Mr.AR.Karthik Lakshmanan

For Respondents in
both petitions : Mr.C.E.Pratap
Government Advocate
(Crl.Side)

C O M M O N O R D E R

These petitions have been filed against the orders dated 14.11.2019 and 18.11.2019 made in Crl.M.P.Nos.11867 and 11868 of



2019, on the file of the VIII Metropolitan Magistrate, George Town, Chennai and quash the same.

2.The case of the petitioner in Crl.R.C.No.1371/2019, is that the petitioner, for obtaining loan of Rs.10 crores from the accused Company, after seeing the advertisement over cell phone, approached the accused Asraf Ali and on promise, the petitioner has paid Rs.62,00,000/- on various occasion. Thereafter, the accused have not arranged the above said loan of Rs.10 Crores. After that on 05.07.2019, the petitioner came to understand that the other accused who were accompanying the main accused Asraf Ali was arrested by the respondent police on 29.06.2019 and 05.07.2019 and recovered Rs.9,80,000/- from the accused person. Subsequently, the accused claiming the cash of Rs.9,00,000/- belongs to the petitioner had filed Crl.M.P.No.11868 of 2019, before the VIII Metropolitan Magistrat, George town, Chennai, for return of the said amount. However, the Trial Court, considering the submission of the learned Public Prosecutor appeared therein, that the said amount was recovered in Cr.No.145/2019 and further since the petitioner in Crl.R.C.No.1371/2019, has not arrayed as complainant in the said complaint, opposed to disburse the cash amount to the petitioner, had dismissed the petition. Aggrieved over the same, the petitioner has filed this petition before this Court for return of cash.

3.The case of the petitioner in Crl.R.C.No.1373/2019, is that the petitioner, for obtaining a loan of Rs.50 lakhs from the accused Company, after seeing the advertisement over cell phone, approached the accused Asraf Ali and on promise, the petitioner has paid Rs.1,00,000/- as commission for the accused for obtaining loan of Rs.50,00,000/-, whereas the accused threatened and extorted the cash of Rs.1,00,000/- from the petitioner and cheated him. Thereafter, the petitioner has lodged a complaint before the respondent Police, who inturn registered a case in Cr.No.145/2019 under Section 341, 323, 294 (b), 336, 427, 392 r/w 397 and 506(ii) IPC. After due investigation, the respondent Police arrested four accused and remanded to judicial custody. During the investigation, based on the confession from the accused persons, the Law Enforcing Agency had recovered Rs.9,80,000/- and thereafter, the petitioner has filed Crl.M.P.No.11867/2019, before the VIII Metropolitan Magistrate, George town, Chennai, for return of the amount of Rs.80,000/-. However, the Trial Court, considering the submission of the learned Public Prosecutor appeared therein, that four more accused and main accused are yet to be secured and more amounts are yet to be recovered and the investigation was still pending, dismissed the petition. Aggrieved over the same, the petitioner has filed this petition before this Court for return of cash.



4. Since the facts leading to the present round of litigation are one and the same, this Court is inclined to dispose of the matter by this common order.

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5. The learned counsel appearing for the petitioners submitted that the Trial Court ought not to have dismissed the petition for return of property, merely on the ground that more amounts are yet to be recovered and moreover, the same cannot be a bar for disbursement for the amounts already recovered and deposited in the Court. Further, as per the confession of the accused persons, it is evident that the recovered sum of Rs.9,80,000/- was belonged to the petitioners herein and therefore, no prejudice would be caused to the respondent Police to disburse the amount in favour of the petitioners. Hence prays for appropriate orders of this Court.

6. The learned Government Advocate (Crl.Side) has filed the common Status Report filed by the respondent wherein it is seen that during the course of investigation, confession statements of A2, A3, A8 and A9 was recorded in the presence of witnesses, in which the accused have admitted that the amounts of Rs.80,000/- and Rs.9,00,000/- respectively, which was recovered, belongs to the petitioner in Crl.R.C.No.1373/2019 and to the petitioner in Crl.R.C.No.1371/2019. Further it is submitted that A3 has given confession that out of Rs.62 lakhs received by A1 from Vamishidar Reddy, Rs.9 lakhs was given towards his share. The learned Government Advocate further submitted that investigation is in the preliminary stage, however, he has no serious objection for returning the recovered amount to the respective petitioners.

7. In view of the consent expressed by the learned Government Advocate (Crl.Side) for the respondent, this Court is allowing these Criminal Revision Petitions and the orders dated 14.11.2019 and 18.11.2019, made in Crl.M.P.Nos.11867 and 11868 of 2019, on the file of the VIII Metropolitan Magistrate, George Town, Chennai, are set aside and the VIII Metropolitan Magistrate, George town, Chennai, is directed to return the deposited recovered amount of Rs.9,00,000/- to the petitioner in Crl.R.C.No.1371/2019 and Rs.80,000/- to the petitioner in Crl.R.C.No.1373/2019, on production of necessary proof of such amount having been given to the accused persons by the petitioners for availing loans and after obtaining appropriate receipt regarding receipt of the above amounts, the amounts may be disbursed to the respective petitioners.

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27.08.2021



BEING MENTIONED

This petitions having been listed on Wednesday, Sixth day of October, 2021(06.10.2021) under the caption for being mentioned, in pursuance of the earlier order dated 27.08.2021 and made herein in the presence of M/s.A.L.Ganthimathi, Advocate for the Petitioner and of Mr.A.Gopinath, Government Advocate (Criminal Side), Advocate for the Respondent and this Court made the following order:

The matter is listed today under the caption "For Being Mentioned" at the instance of the learned counsel for the petitioner.

2.It is brought to the notice of this Court that some typographical error has been crept in para No.7 of the order dated 27.08.2021 and the same shall be replaced as follows:

' ' In view of the consent expressed by the learned Government Advocate (Crl.Side) for the respondent, this Court is allowing these Criminal Revision Petitions and the orders dated 14.11.2019 and 18.11.2019, made in Crl.M.P.Nos.11867 and 11868 of 2019, on the file of the VIII Metropolitan Magistrate, George Town, Chennai, are set aside and the VIII Metropolitan Magistrate, George Town, Chennai, is directed to return the deposited recovered amount of Rs.9,00,000/- to the petitioner in Crl.R.C.No.1371 of 2019 and Rs.80,000/- to the petitioner in Crl.R.C.No.1373 of 2019, on production of necessary proof of such amount having been given to the accused persons by the petitioners for availing loans or on production of bank statements showing cash withdrawals and after obtaining appropriate receipt regarding receipt of the above amounts, the amounts may be disbursed to the respective petitioners.' '

3. Registry is directed to carry out the necessary correction in the order dated 27.08.2021 and issue a fresh copy of the order to the learned counsel for the parties.

Msrn

06.10.2021

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar



To

1. VIII Metropolitan Magistrate,
George town, Chennai,
2. The Public Prosecutor,
High Court, Madras.
3. The Sub-Inspector of Police,
C-3, Seven wells Police Station,
Flower Bazaar, Chennai.
4. The Inspector of Police,
Central Crime Branch EDF-1
Ist floor, Room No - 1C,
O/o The Commissioner of Police,
Vepery, Chennai - 600 007.

Crl.R.C.Nos.1371 and 1373 of 2019

PVS(CO)
LS(07/10/2021)