



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 12.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.70 of 2021

M.Sannasi

... Petitioner/ Petitioner/
Prosecution Witness

Vs.

1.The State rep. By the,
Inspector of Police,
Allinagaram Police Station,
Theni.
(Crime No.1400 of 2020)

... 1st Respondent/1st Respondent/
Complainant

2.Nagalakshmi

..2nd Respondent/ 2nd Respondent/
Defacto Complainant

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records relating to the impugned order dated 15.10.2020 made in Cr.M.P.No.1990 of 2020 on the file of the Judicial Magistrate Court, Theni and to set aside the same.

For Petitioner	: Mr.R.Gandhi
For Respondents	: Mr.S.Chandrasekar
	Additional Public Prosecutor
	for Respondent No.1

ORDER

This petition has been filed to set aside the order passed in Crl.M.P.No.1990 of 2020 dated 15.10.2020, on the file of the learned Judicial Magistrate, Theni.

2.The deceased was working as the Manager in the company. He was sent to the bank for collection of amount after encashing three cheques. One for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) in the name of the petitioner and another for a sum of Rs.7,00,000/- (Rupees Seven Lakhs only) in the name of Rajesh and another for a sum fo Rs.7,00,000/- (Rupees Seven Lakhs only) in the name of Suresh kannan. While the deceased was returning from the bank after encashing a sum of Rs.25,00,000/- (Rupees Twenty Lakhs only), he was murdered by the accused and the amount was robbed from him. A case was registered in Crime No.1400 of 2019 on the file of the first respondent. The amount was seized by the police. The amount was produced before the Court and was remanded in R.P.R.No.112 of 2020. The petitioner claiming himself as the owner of the property



filed a petition in Cr.M.P.No.1990 of 2020 before the learned Judicial Magistrate, Theni. The petition was dismissed by the Magistrate on 15.10.2020. Against the dismissal of the petition, the petitioner preferred this revision.

3.On the side of the petitioner, it is stated that the petitioner is the owner of the property. He can be named as one of the victims. The manager of the petitioner was murdered by the accused. Even in the FIR, it is particularly stated that the cash amount belongs to the petitioner. Already chargesheet was filed. The cheque was in the name of the petitioner. The petitioner is ready to furnish sureties and prayed the amount to be returned back to the petitioner.

4.On the side of the respondents, it is stated that the procedures laid down in the judgment of the Hon'ble Apex Court in the case of ***Sundarbhai Ambalal Desai v. State of Gujarat*** reported as ***CDJ 2003 SC 61*** has to be followed. The property involved in the offence is liquefied cash. If the cash amount was handed over to the petitioner, the property may not be produced at the time of trial and prayed the petition to be dismissed.

5.Though notice was served to the second respondent, none appears for the second respondent.

6.The trial Court has made an observation that there was no endorsement made in the cheque leaf that the petitioner was sending someone else to collect the cheque amount and that the petitioner is not entitled for the cheque amount.

7.The husband of the second respondent worked as the Manager in the petitioner's company. Even in the FIR, it is stated that the petitioner is the owner of the property. If there is any dispute regarding the ownership, the petitioner can refund the amount. Keeping the amount idle in the Court custody will not serve any purpose.

8.In the above circumstances, this Court is inclined to return the property to the petitioner on the following conditions:

(i)The petitioner is directed to replace the original currencies with its photocopies for identification.

(ii)The petitioner is also directed to execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) before the learned Judicial Magistrate, Theni and to produce bank surety for the said amount.

9.In view of the above, this Criminal Revision Case is allowed and the order passed in CrI.M.P.No.1990 of 2020 dated



15.10.2020, on the file of the learned Judicial Magistrate, Theni is set aside.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Judicial Magistrate, Theni.
2. The Inspector of Police,
Allinagaram Police Station,
Theni.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
Criminal Records Section,
Madurai Bench of Madras High Court,
Madurai (2 copies)

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VB (30.03.2021) 3P 6C