



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **15.12.2021**

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11519 of 2021

and

W.M.P(MD)Nos.9038 & 9040 of 2021

The Branch Manager,
Muthoot Finance Limited,
Kovilpatti Branch,
New Road,
Kovilpatti,
Thoothukudi District.

... Petitioner

Vs.

1.The Superintendant of Police,
Thoothukudi District,
Thoothukudi.

2.The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.

3.Muthuramalingam

4.Mariselvam

5.Kannimariyal

6.Annalakshmi

7.M.Mariammal

8.M.Baby Shalini Saraswathi

9.P.Sakunthala Mary

(R.7 to R.9 are impleaded as per the Order
of this Court in W.M.P.(MD)No.17471 of 2021
dated 15.12.2021)

... Respondents

Prayer: Writ Petition is filed under Article 226 Constitution of India, to issue a Writ of Certiorari, to call for the impugned letter passed by the second respondent, under proceeding No.Nil, dated 01.07.2021, relating to mandating the writ petitioner to surrender the jewels pledged by the respondents 3 to 6 and to quash the same.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.E.Antony Sahaya Prabahar

Additional Public Prosecutor for R.1&R.2



Mr.A.Jeyaramachandran for R.4 to R.6
Mr.R.Anand for R.7 to R.9
R.3 Left

O R D E R

Heard the learned counsel on either side.

2. The second respondent herein had issued the impugned communication calling upon the petitioner to hand over the petition mentioned jewels. The case of the impleaded respondents is that they are the owners of the jewels and that they were made to part with the same under deceptive circumstances and that the subject matter of crime was pledged with the petitioner herein. Based on their complaint, Crime No.117 of 2021 has been registered on the file of Ottapidaram Police Station, for the offences under Sections 406, 417 and 420 IPC. Since the pledged items are subject matter of the criminal case, the Investigation Officer has called upon the petitioner to hand them over.

3. Dealing with a similar case, a learned Judge of this Court, vide order dated 21.04.2016 in W.P.(MD)No.14882 of 2015 and CrI.O.P.(MD)No.1420 of 2016 had held that absence of corpus delicti can noway destroy the prosecution case, if it otherwise is able to prove the ingredients of the offences by adducing proper evidence. The petitioner gives an undertaking before this Court that they will not bring the pledged items to auction, but keep the same in their safe custody. They also undertake to produce him before the Judicial Magistrate Court as and when called upon to do so. If the criminal case registered against the accused ends in acquittal, the petitioner can act as per the terms of contract. If the criminal case ends in conviction, the Magistrate will decide on handing over the items in question after hearing the petitioner and the impleaded respondents in a petition filed under Section 457 Cr.P.C. The impugned communication is set aside.

4. This Writ Petition is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

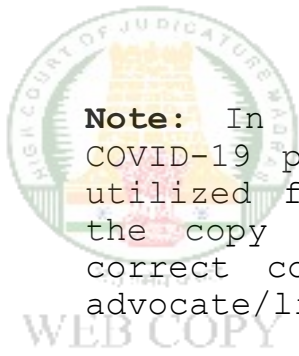
Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

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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 Superintendant of Police,
Thoothukudi District,
Thoothukudi.

2.The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-39109[F] dated 16/12/2021)

W.P (MD) No.11519 of 2021
and
W.M.P (MD) Nos.9038 & 9040 of 2021
15.12.2021

BK (CO)
KB (20.01.2022) 3P 4C