



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **G. ILANGOVAN, J.**
Crl.O.P.(MD)No. 15095 of 2020

K.Swaminathan

... Petitioner/Petitioner
Vs.

1.The Inspector of Police,
North Police Station,
Karaikudi,
Sivagangai District.

(In Crime No.564 of 2016). ...1st Respondent/1st Respondent

2.Mr.Vimalan

...2nd Respondent/2nd Respondent

3.Lakshmi

...3rd Respondents/3rd Respondent

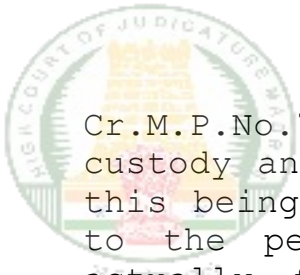
PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order made by the Sessions Court, NDPS Act Cases, Pudukkottai in unnumbered Cr.M.P.No. of 2020, dated 08.10.2020, titling K.Swaminathan Vs the Inspector of Police and two others and consequently direct the learned Judge, Sessions Court for NDPS Act Cases, Pudukkottai to number the petitioner's petition and to dispose of the same, within a time stipulated by this Court.

For Petitioner : Mr.A.Balaji
For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor.
(Crl.side)

ORDER

This petition has been filed to set aside the order made by the Sessions Court, NDPS Act Cases, Pudukkottai in unnumbered Cr.M.P.No. Of 2020, dated 08.10.2020.

2. The case of the petitioner is that he has given an amount of Rs.26 Lakhs to the accused, who is arrayed as the second respondent herein as a part of sale consideration of Rs.42 Lakhs for purchasing the property in town Survey No.47, Plot No.171, Sri Sai Nagar, Virugambakkam, measuring 2687 sq.ft. According to the petitioner, since he is the victim, he is entitled to the balance amount. Hence, he has filed a petition before the trial Court. The petition filed by the petitioner was returned by the trial Court, with an observation that the petitioner has already filed



Cr.M.P.No.792 of 2017 for return of Rs.26 Lakhs with interim custody and the same was dismissed on 12.04.2017 and stating that this being the second petition, it is not maintainable. According to the petitioner, the petition in Cr.M.P.No.792 of 2017 was actually filed by the accused one Vimalan, which came to be dismissed by order dated, 12.04.2017. There is an observation to the effect that only victim can file an application for return of money and not the accused. The petitioner being the victim of the crime is entitled for the amount lying in the account.

3.Heard the learned counsel for the petitioner and the perused the materials available on record. As rightly pointed out by the learned counsel for the petitioner, originally Cr.M.P.No.792 of 2017 was filed by the accused and not by the victim. Hence, it is the duty of the concerned trial Court to number the petition filed by the petitioner and dispose of the same on merits and in accordance with law, by giving opportunity to all the persons concerned.

4. In view of the same, a direction is given to the learned Judge, Sessions Court, NDPS Act Cases, Pudukkottai to number the petition filed by the petitioner and dispose of the same on merits and in accordance with law, by giving due opportunity to all the persons concerned. The petitioner is also directed to resubmit the petition before the concerned Court, within a period of 15 days from the date of resumption of normal work in the Subordinate Courts and the learned trial judge is also directed to number the petition and dispose of the same, within 15 days thereafter.

5.With the above direction, this Criminal Original Petition is disposed of. If the original petition is available with the Registry, the same shall be returned to the learned counsel for the petitioner, after getting due acknowledgment.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Vrn

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 Judge, Sessions Court, NDPS Act cases,
Pudukkottai.

2.The Inspector of Police,
North Police Station,
Karaikudi,
Sivagangai District.
(In Crime No.564 of 2016).

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:-

The Section Officer,
E.R Section,

Madurai Bench of Madras High Court, Madurai. (2 Copies)

Crl.O.P. (MD) No.15095 of 2020

18.06.2021

==CN(13.07.2021) 3P 6C