

17.11.2022

Court No.35
Item No. 10

d.g.

CRR 2339 of 2016

**Dipali Pal
Vs.
Pravat Pal & Ors.**

Mr. Prasanta Kumar Banerjee,
Ms. Indrani Nandi.

... For the petitioner

Affidavit-of-service filed in Court today is taken on record.

This is an application by the petitioner who happens to be the wife of the opposite party no. 1 challenging the inaction of police in complying with the order of Magistrate dated 7th June, 2016, passed in a proceeding under Section 94 of the Code of Criminal Procedure, 1973.

Petitioner's grievance in a nutshell is that she had preferred an application under the aforestated provisions of law before the Magistrate i.e., Sub-Divisional Executive Magistrate at Kalna in M.P. Case No. 392 of 2014 containing, inter alia, that pursuant to the demand of the opposite parties, her family had to render a considerable amount of "Stridhan" properties comprising of valuable materials including ornaments at the time of her marriage with the OP no. 1. The same have been kept with the opposite parties. However, the petitioner has been driven out from her matrimonial house and the opposite parties are yet to return back all the "Stridhan" properties as mentioned above.

This has prompted her to pray before the Trial Court by filing the said M.P. case for necessary direction. It is submitted that the Court by issuing an order dated 7th July, 2016 directing the police to cause an enquiry, to take possession of any property if found, and to convey before the magistrate about the same.

A report of police dated 31st March, 2015, may be mentioned which shows that the articles and properties have been marked to be

found in the possession of the opposite parties. It is further submitted that in the said report dated 31st March, 2015, S.I. of Nadanghat Police Station has sought for permission of the Magistrate to recover the articles as found in their possession.

Mr. Banerjee, learned Advocate for the petitioner submits that inaction of police to recover the property and to take possession thereof in spite of there being an order of the Court is not maintainable and necessary direction may be made to remedy the same.

None appears on behalf of the opposite parties.

It has been submitted on behalf of the petitioner, by handing over an affidavit-of-service that the opposite parties are not available at the address known to the petitioner.

Considering the facts and circumstances, the matter is taken up for disposal in absence of the opposite parties.

Section 94 of the Cr.P.C. empowers a Magistrate to authorize the police officer to do certain acts in order to fructify search of a place, which is suspected to contain stolen property and a forged documents. When the petitioner had moved the Magistrate's Court under the said provision of law, the Magistrate had passed an order dated 7th June, 2016, part of which is mentioned hereinabove. It transpires from the said order that the Magistrate has directed the police to cause an enquiry of the place and take possession of "any property", if found.

Thus, there being a categorical finding and direction of the Magistrate which has been expressed by dint of the said order dated 7th June, 2016, the same should have been complied with by the police authorities with immediate effect. Record however does not reveal any action on the part of the police authorities in respect of the order of the Magistrate issued against them, which is the grievance of the petitioner in this case.

Hence, let the revision case be disposed of with the direction upon the police authorities to immediately comply with the order dated 7th June, 2016 in connection with M.P. Case No. 392 of 2014 and submit a report in the Court of Magistrate.

Hence, the revision succeeds.

Accordingly, CRR 2339 of 2016 is allowed with the directions as made above.

All parties are to act in terms of a copy of this order, duly downloaded from the official website of this Court.

(Rai Chattopadhyay, J.)