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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM : JUSTICE N.SESHASAYEE

Crl.R.C.No.51 of 2022

Subratha Jana .. Petitioner / Petitioner
Defacto complainant

Vs.

1.The State of Tamil Nadu
Rep by the Inspector of Police
EDF - I Wing, Team-I
Central Crime Branch
Vepery, Chennai.

2.The Inspector of Police
C2, Elephant Gate Police Station
Chennai. .. Respondent / Respondent /
Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 Cr.P.C., praying to set aside the order dated 09.9.2021 in Crl.M.P.No.6734 of 2021 passed by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai, connected with C-2 Elephant Gate P.S. Crime No.943 of 2020, newly assigned as CCB X Cr.No.69 of 2021 (on the file of the respondent).

For Petitioner : Mr.M.Illiyas (No appearance)

For Respondents: Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

O R D E R

The revision petitioner before this Court is the defacto complainant in Crime No.943 of 2020, and the case is now under investigation by the respondent-police.

2.The allegation in the FIR is that the defacto complainant and another which include a certain Deepak Samantha have supplied gold jewelleries to a certain Iyyanar, the accused in this case. As per the business practise, Iyyanar owes to return 92.7% pure gold in lieu of the jewelleries supplied. For the jewelleries



which the defacto complainant and other have left with the accused on 06.11.2020, the accused had promised to give pure gold that night at the above stated rate. However, no such gold was returned by the accused and he absconded. Hence, at the instance of the defacto complainant, a case came to be registered.

3. In the course of investigation, the Investigating Agency have seized some Rs.11,00,000/-from the accused, and that is now in the Court custody. The defacto complainant would now moved an application before the trial Court in Crl.M.P.No.6734 of 2021, for handing over the aforesaid Rs.11.0 lakhs to him. Deepak Samantha who is stated to be the other victim of the same crime has filed his affidavit that he has no objection to the same. However, a certain Shaila Santra intervened the matter in Crl.M.P.No.11419/2021 and she opposed the same. She claimed that this accused had business dealings with few other gold manufacturers including her, and that the value of certain Rs.11.0 lakhs which was seized by the police and now in the Court custody includes the value of 305.498 grams of gold ornaments which was supplied to the accused.

4. On hearing both sides, the learned Magistrate dismissed the application of the defacto complainant. Challenging the same, the defacto complainant has preferred this revision.

5. Heard the learned Government Advocate (Crl. Side) and also perused the pleadings.

6. This Court does not find any impropriety or irregularity in the order passed by the learned Magistrate. Till date, the police have seized Rs.11.0 lakhs and that it cannot be presumed that it belonged to just the defacto complainant, as there may be multiple victims and multiple accused. Even in the FIR which is registered based on the complaint of the defacto complainant, he missed to mention the names of few others, other than Deepak Samantha. Hence, it will be a dangerous course to presume that the entire Rs.11.0 lakhs seized by the police represents the value of the gold jewelleryes that the defacto complainant has left with the accused.

6. In the result, this revision is dismissed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To:

1. The Inspector of Police
EDF - I Wing, Team-I
Central Crime Branch
Vepery, Chennai.
2. The Inspector of Police
C2, Elephant Gate Police Station
Chennai.
3. The Public Prosecutor
Madras High Court
Chennai - 600 104.

Cr.R.C.No.51 of 2022

KG(CO)
GMY(08/03/2022)