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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.125 OF 2022

M/S. Arun Mithun Traders
Represented by its partner,
A.Malaichamy, Male, Aged 65 years,
S/o. Late S.Alagupillai,
67, Perundurai Road,
Opp. Rana Mandapam,
Erode-638 011.

... Petitioner

Vs.

1. State represented by its
Inspector of Police,
Tiruppur Central Police Station,
Tiruppur.

2. Sri Sumitha

... Respondents

PRAYER:

The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.1862 of 2021 dated 17.11.2021 by the Judicial Magistrate No.II, Tiruppur and may be pleased to return the property Title Deeds bearing Sale Deeds Nos.6230 of 2008 dated 29.12.2008 and 51 of 2010 dated 06.01.2010 deposited in Crime No.13 of 2019 on the file of the respondent police.

For Petitioner : Mr.H.Manivannan
No Appearance.

For Respondents : Mr.S.Sugendran for R1
Government Advocate [Crl. Side]



O R D E R

(The case has been heard through Video Conferencing)

This Criminal Revision Petition has been filed against the dismissal of the petition seeking for return of property.

2. According to the petitioner, he is the second accused in Crime No.13/2019 registered by the first respondent on the complaint given by one Sri Sumitha. During the investigation, the petitioner had approached this Court seeking anticipatory bail in CrI.O.P.No.2052 of 2019 and this Court by order dated 07.06.2019, while granting anticipatory bail to the petitioner, had directed the petitioner to deposit title deed of property worth about one crore. Pursuant to the order passed by this court, the petitioner deposited Document No.6230/2008 dated 29.12.2008 and 51/2010 dated 06.01.2010 as security before the concerned Magistrate Court and thereafter, during the course of investigation, the first respondent found that the petitioner has not committed any offence and thereafter, the first respondent had filed a final report closing the case as mistake of fact in RCS No.1 of 2021. After the closure of the case, nothing survives in Crime No.13/2019. Meanwhile, the petitioner has also given a counter complaint against the defacto complainant and a case was registered by CCB, Tiruppur and during the pendency of investigation, the defacto complainant on her own came forward and settled the money of Rs.7,02,867/- to the petitioner and as of now, absolutely there is no dispute between the petitioner and the defacto complainant and thereby the petitioner filed an application under Section 452 Cr.P.C. seeking for return of the document deposited as security before the trial court whereas the trial court stating that the matter is pending as RCS stage, had dismissed the application. Learned counsel would reiterate stating that the respondent has also served RCS notice on the defacto complainant and no protest petition has been filed by the defacto complainant so far and nothing survives for adjudication before the trial court as on today, whereas the trial court had erroneously dismissed the application for return of document. Learned counsel would further submit that the petitioner is put to hardship and there is every possibility of the document getting misplaced or lost in the court also. He would further submit that the defacto complainant was put on notice and she has not objected to return of the document whereas without any proceedings pending, the respondent has stated that if the document is handed over to the petitioner, there is possibility of the petitioner absconding which is absolutely unfounded and thereby he would seek to set aside the impugned order.



3. Mr.S.Sugendran, learned Government Advocate(Crl.Side) who takes notice for the first respondent would submit that the investigation has been completed and the case has been closed as mistake of fact and it is pending in RCS No.1/2021. He would further submit that the defacto complainant has not filed any protest petition and she has also not objected before the lower Court.

4. There is no representation for the petitioner. Heard the learned counsel for the first respondent and perused the materials on record.

5. Admittedly, the petitioner is the owner of the property and the documents belonging to him have been deposited pursuant to the conditional order of anticipatory bail granted by this court. As on today, the case has been closed as mistake of fact. The defacto complainant has not filed any protest petition and she has also not objected to for return of the documents to the petitioner. In such circumstances, this Court is of the opinion that the original documents belonging to the petitioner can be returned to him.

6. In view of the above, the order dated 17.11.2021 in Crl.M.P.No.1862 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the trial court is directed to return the title deeds of the petitioner, viz., Sale Deed documents bearing Nos.6230/2008 dated 29.12.2008 and 51/2010 dated 06.01.2010 to the petitioner.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. The Judicial Magistrate No.II,
Tiruppur.
2. Do-thro The Chief Judicial Magistrate,
Coimbatore.



3. The Inspector of Police,
Tiruppur Central Police Station
Tiruppur.

4. The Public Prosecutor,
Madras High Court.

Cr1.R.C.No.125 of 2022

PL (CO)
PM/17/02/2022