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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.R.C.No.206 of 2022

Otterising

... Revision Petitioner/Petitioner

Vs.

State Rep. By
The Station House Officer,
Ananthapuram Police Station.
(Crime No.238 of 2021)

... Respondent/Respondent

Criminal Revision Case filed under Section 397 r/w 401 of of the Code of Criminal Procedure, against the order dated 24.01.2022 made in CIS CRLM No.12 of 2022, on the file of the learned Judicial Magistrate, Gingee, Villupuram District.

For Revision Petitioner :Mr.R.Muthu Ramananad
for.Mr.C.Prabakaran

For Respondent :Mr.Leonard Arul Joseph Selvam
Government Advocate (Cr1.Side)

O R D E R

This Criminal Revision Case has been directed against the order dated 24.01.2022, passed by the learned Judicial Magistrate, Gingee, Villupuram District, dismissing the petition filed by the petitioner under Section 451 of Cr.P.C., in CIS CRLM.No.12 of 2022, for return of the property.

2. The case of the petitioner is that the petitioner belongs to Narikuravar Community and after getting licence from the appropriate authority, he is possessing one country gun, which is required for his day-to-day affairs. During the relevant point of time, without getting permission from the petitioner, the accused in this case, took the said country gun and indulged in rabbit hunting. After seeing the same, the respondent police arrested the accused and on verification, they came to know that



the country gun, which was used by the accused is not having any valid licence and therefore, a case has been registered and afterwards the petitioner filed a petition before the learned Judicial Magistrate, Gingee, under Section 451 Cr.P.C., for return of property. The said petition filed by the petitioner was dismissed without any reasons. Accordingly, the petitioner is before this Court with the present Criminal Revision Case.

3. The learned counsel for the petitioner would contend that during the relevant point of time, without getting permission from the petitioner and without his knowledge, the accused 1 and 2 took the country gun and indulged in rabbit hunting. In the said circumstances, if the country gun is kept in the custody of the Court, the same loses its significance and cannot be used furthermore. But the learned Judicial Magistrate, Gingee, without considering the same, refused interim custody of the same to the petitioner. Hence, he prayed for interim custody of the country gun to the petitioner herein.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police raised objections stating that during the relevant point of time, without any licence, the accused used the country gun. Further, the owner of the country gun was now arrayed as an accused in the petition mentioned case. Hence, in the said circumstances, if the property is returned to the petitioner for interim custody, he would try to tamper the evidence and hamper the investigation.

5. Submissions made by the learned counsel appearing on either side, are considered.

6. In the impugned order passed by the learned Judicial Magistrate, Gingee, it was held that the copy of the licence produced by the petitioner, discloses the fact the licence issued to the petitioner was renewed only upto 31.12.2020 and on the other hand, the incident took place on 31.05.2021. In this regard, there was no denial on the side of the petitioner as the licence was renewed after 31.12.2020. Accordingly, the same concludes, the country gun used by the accused is not having any valid licence for using the same. The other contention raised by the learned Government Advocate is that the petitioner is also arrayed as an accused in the petition mentioned case.



7. Therefore, in the above said circumstances, if the country gun is returned to the petitioner, obviously, he may try to tamper the same and attempt to evade from the clutches of law. Hence, this Court affirms the view taken by the learned Judicial Magistrate, Gingee and accordingly, dismiss this Criminal Revision Case.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

ars
To

1. The Judicial Magistrate,
Gingee, Villupuram District.
2. The Station House Officer,
Ananthapuram Police Station.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Prabakaran, Advocate Sr.17353

Cr1.R.C.No.206 of 2022

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