

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.620 of 2022

S.Mariyappan (M/40)

...Petitioner/Petitioner

Versus

State represented by,
Inspector of Police,
Cyber Crime Cell-Team-29,
Central Crime Branch,
Chennai.
(Crime No.325 of 2020)

...Respondent/Respondent

Criminal Revision Case filed under Section 397 read with 401 Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.29851 of 2021, dated 11.01.2022 by the CCB & CBCID, Metropolitan Magistrate, Egmore, Chennai -8, with regard to item No.2 to 28 and so for as item No.1, Scarpio Car is concerned, to modify the condition no.i) of the order that the petitioner shall execute a bond to the value of the said vehicle four wheeler Mahindra Scorpio bearing Registration No.TN-72 - BJ - 0448 along with sureties for the like sum and consequently, return the Schedule mentioned properties to the petitioner in connection with the Crime No.325 of 2020, on the file of the respondent/Police.

For Petitioner : Mr.B.Kumar, Senior Counsel,
for Mr.P.Arumugavel.

For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Crl.side)

O R D E R

This Criminal revision is filed aggrieved by the order of the learned CCB&CB CID, Metropolitan Magistrate, Egmore, Chennai, dated 11.01.2022 in Crl.M.P.No.29851 of 2021, in and by which, the prayer of the petitioner for return of articles, which are listed infra, in this order was partly allowed only in respect of the vehicle and it was rejected in respect of other items. Even in respect of the vehicle, it was ordered to be returned with certain conditions imposed, which is alleged by the

petitioner that he is unable to comply with the said conditions. Hence, the present revision.

2.The following articles mentioned on page No.59 of the affidavit, are mentioned hereunder:-

S.I .	Description of property	Value of Property	SI.No. mentioned in the form 91, dated 25.01.2021
1	Four Wheeler TN-72-BJ-0448	White Scorpio-Diesel car	52
2	Gold Bangles set	8 sovereign	53
3	Pepper gold chain	4 sovereign	54
4	Gold Ring	$\frac{1}{4}$ sovereign	55
5	Pichi Poo Gold Garment with ropes	6 sovereign	56
6	Gold Dollor chain with ropes	6 $\frac{1}{2}$ sovereign	57
7	Gold Dollar chain (without back chain)	7 sovereign	58
8	Gold Necklace	3 sovereign	59
9	Gold chain with red color stone	6 sovereign	60
10	Gold step chain	4 sovereign	61
11	Pichi Poo Gold Chain	3 sovereign	62
12	Gold Governor Malai	20 sovereign	63
13	Gold Varikai Malai	8 sovereign	64
14	Gold Mango Garment	4 sovereign	65
15	Gold Lotus Garment	3 sovereign	66
16	Gold Lakshmi Necklace	3 sovereign	67
17	Gold Bracelet	1 sovereign	68
18	Strabus Gold Stud	$\frac{1}{2}$ sovereign	69
19	Gold Stud with Jimikki	1 $\frac{1}{2}$ sovereign	70
20	Earring one set	$\frac{1}{2}$ sovereign	71
21	Gold stud with earring	$\frac{1}{2}$ sovereign	72
22	Gold Bracelet	$\frac{1}{2}$ sovereign	73

S.I .	Description of property	Value of Property	SI.No. mentioned in the form 91, dated 25.01.2021
23	Gold Mrurkku Chain	12 sovereign	74
24	Gold Bracelet	7 sovereign	75
25	Gold Kodi Chain	10 sovereign	76
26	Gold Spring Chain	7 sovereign	77
27	Gold Bracelet	1 ½ sovereign	78
28	Cash Rs.9,54,910/-	1) 2000 *114=2,28,000/- 2) 500 *1437=7,18,500/- 3) 200 *11=2200/- 4) 100 *62=6200/- 5) 10 *1=10 9,54,910/-	79

3.Today, when the matter came up for hearing, this Court posed a question as to how the other articles including cash can be returned.

4.When this Court expressed its opinion, the learned Senior Counsel appearing for the petitioner submits as to how the other articles including the Cash can be released to the petitioner. The learned Senior Counsel has submitted that the Cash of Rs.9,54,910/- need not be returned to the petitioner and he is pressing this petition in respect of the other things alone. Further, he would submit that as far as the jewelry are concerned, they are not in any manner related to the crime. They have been seized only with a view to realize the money involved in the event of conviction in the criminal case. He would further submit that the total amount as alleged by the prosecution is Rs.14,41,089/-, and out of the same, it is seen in item no.28 of the properties seized and the sum of Rs.9,54,910/-, as Cash was already seized. Now, the petitioner is willing to deposit the balance amount of Rs.4,86,180/- to the credit of C.C.No.3897 of 2021 and upon such deposit, those articles may be returned to him.

5.The learned Senior Counsel would also submit that the condition imposed by the Trial Court for return of vehicle may also be looked into by this Court.

6.Upon such reply by the learned Senior Counsel, the learned Government Advocate (Criminal side) appearing for the respondent was directed to get instructions from the respondent as to whether the amount involved in this case is only a sum of

Rs.14,41,089/- and upon such deposit, the balance amount whether the jewellery can be ordered to be returned. The learned Government Advocate (Criminal side) appearing for the respondent would further submit that it is correct to state the total amount involved is Rs.14,41,089/- and the petitioner may be ordered to deposit the sum of Rs.4,86,180/-, upon which, this Court can pass appropriate orders.

7. In view of the above, I am inclined to allow this Criminal Revision on the following terms:-

(i) The order of the learned CCB, CBCID, Metropolitan Magistrate, Egmore, Chennai, dated 11.01.2022 in CrI.M.P.No.29851 of 2021 is set aside.

(ii) The petitioner is entitled to return of the car mentioned as Item No.1, viz., Four Wheeler vehicle, Mahindra Scorpio Car bearing Registration No.TN- 72- BJ-0448, on the following conditions:-

(a) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(b) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(c) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(d) The petitioner shall participate in the confiscation proceedings if any, initiated and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings.

(e) The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the present vehicle (Mahindra Scorpio Car bearing Registration No.TN- 72- BJ- 0448,), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

(iii) The gold jewelry mentioned in Item No.2 to 27 in the Tabular Statement above is also ordered to be returned after taking necessary photographs and the weighments, if any, which may be necessary for the purpose of this case.

(iv) The above said gold jewelry can be returned after the petitioner deposits the sum of Rs.4,86,180/-, to the credit of C.C.No.3897 of 2021.

(v) The Trial Court shall take necessary pictures, note down the serial numbers of the currency and follow such formalities as may be necessary in respect of seized cash of Rs.9,54,910/- and after the same, invest the said amount of Rs.9,54,910/- and the deposited amount of Rs.4,86,180/- in all total into Rs.14,41,089/- in Fixed Deposit of any one of the Nationalised Bank, so that at the end of the trial, the same may be disbursed to the party concerned along with accrued interest.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

klt

To

1. The CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
Cyber Crime Cell Team-29,
Central Crime Branch, Chennai.
3. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.P.Arumugavel, Advocate, S.R.No.42469

Cr1.R.C.No.620 of 2022

NMI(CO)
RGA(13/07/2022)