



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.317 of 2022

WEB COPY

Harigha @ Harika

... Petitioner/Petitioner/
Accused (Owner of the property)

Vs

The State represented by
The Inspector of Police,
Anna Nagar Police Station,
Madurai City.

(Crime No.1987 of 2021) ... Respondent/Respondent/Complainant

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for the records and set aside the order dated 10/02/2022 made in Cr.MP.No.166/2022 in C.C No.379/2022, on the file of the learned Judicial Magistrate No.VI, Madurai.

For Petitioner : Mr.P.Pandi Rani

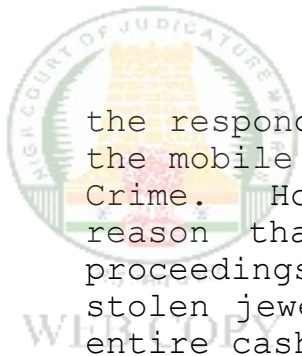
For Respondent : Mrs.M.Aasha
Government Advocate (Criminal Side)

O R D E R

This Criminal Revision Case has been filed challenging the impugned order dated 10.02.2022, passed in Cr.MP.No.166/2022 in C.C No.379/2022, by the file of the learned Judicial Magistrate No.VI, Madurai, thereby, dismissing the petition filed, for return of property, ie., mobile phone.

2.The petitioner is an accused in Crime No.1987 of 2021, registered for the offence under Section 380 IPC, alleging that on 17.11.2021, the petitioner has stolen sum of Rs.2,10,000/- and 5 sovereigns of gold jewels from the defacto complainant's house. Pursuant to the said crime, the petitioner was arrested and his mobile phone viz., Apple iPhone 13 PRO Max (256 GB) Sierra Blue Colour, was seized from the petitioner herein. After completion of his investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.378 of 2022, on the file of the learned Judicial Magistrate No.VI, Madurai.

3.While pending trial, the petitioner filed a petition for return of property, ie., Mobile Phone, which was seized from him, by



the respondent during investigation, stating that he is the owner of the mobile phone and the said mobile phone was never involved in the Crime. However, the Court below dismissed the petition, for the reason that the said cell phone was purchased from the crime proceedings. The case of the prosecution is that the petitioner has stolen jewels and cash from the defacto complainant's house. The entire cash and golden ornaments, which were allegedly stolen by the petitioner, had been recovered from the petitioner. While that being so, this Court finds that keeping the mobile phone in Court custody, till the disposal of the trial, would not serve any purpose.

4. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 10.02.2022, passed in Cr.MP.No.166/2022 in C.C No.379/2022, by the learned Judicial Magistrate No.VI, Madurai is hereby set aside. The Judicial Magistrate No.VI, Madurai is hereby directed to hand over the mobile phone to the petitioner, on the following conditions.

- *The petitioner is directed to execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum, to the satisfaction of the learned Judicial Magistrate No.VI, Madurai;*
- *that the seized items should be photographed at the cost of the petitioner herein and a list is to be prepared and the same is to be signed by the petitioner;*
- *that the petitioner shall not mortgage or shall not alienate and shall not make any alteration in the property;*
- *that the petitioner shall produce the property as and when required by the Court below and the respondent.*
- *If any of the conditions are violated, this order automatically stands cancelled.*

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Judicial Magistrate No.VI, Madurai.

2.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,Criminal(Records),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.PANDI RANI, Advocate (SR-15169[F] dated 29/03/2022)
28.03.2022

MGJ(12.04.2022) 3P 7C