



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C. (MD)No.795 of 2021

K.Swaminathan

... Petitioner

Vs.

1.The Inspector of Police,
North Police Station,
Karaikudi,
Sivagangai District.
(In Crime No.564 of 2016)

2.Vimalan

3.Lakshmi

... Respondents

Prayer: This Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C., to call for the records and to set aside the order made by the learned Additional District and Sessions Judge, Presiding Officer Special Court for E.C. and NDPS Act Cases, Pudukottai in Cr.M.P.No.1315 of 2021 dated 06.09.2021.

For Petitioner : Mr.A.Balaji

For Respondents : Mrs.M.Aasha,

Govt. Advocate (Crl. Side) for R1

Mr.S.Saravanakumar for R2 & R3.

O R D E R

This criminal revision case has been filed challenging the order passed by the learned Additional District and Sessions Judge, Presiding Officer Special Court for E.C. and NDPS Act Cases, Pudukottai in Cr.M.P.No.1315 of 2021 dated 06.09.2021, thereby dismissing the petition filed for return of cash of Rs.26,00,000/- under Section 451 of Cr.P.C.

2.The case of the prosecution is that the defacto complainant received anonymous call from a networking person, who introduced himself as the Manager of ICICI Bank, Karaikudi and asked his bank account details. Suspecting the said phone call, the defacto complainant lodged a complaint before the first respondent and the same was registered as Crime No.564 of 2016 for the offences under Sections 420 and 511 of IPC.

3.After investigation, it was revealed that the second respondent, who is the perpetrator was arrested and the following articles were seized from him:-

"1.HP Laptop-1

2.Compaq Laptop-1

3.Canan Scanner Mission-1



- 4.Binary Magnetic Card Reader-1
- 5.ATM Card-48
- 6.Sim Card-9
- 7.Amount of Rs.26 Lakhs
- 8.Neckles
- 9.Bracelet-2
- 10.Bangles-2
- 11.Chain
- 12.Ring-2
- 13.Chimikki-1 Set
- 14.Uruttu Chain-1
- 15.Silver Ring-1
- 16.Diazepam and Alprazolam Power (510 gms) "

Since contraband had been seized from the second respondent, an alteration report was filed by incorporating Sections 8(c) r/w. 22 (C) of the Narcotic Drugs and Psychotropic Substances Act and the seized items were handed over before the concerned Court. Thereafter, the second respondent filed a petition in Cr.M.P.792 of 2017 seeking return of the seized articles. The Special Court returned only the items 8 to 15 as mentioned above and retained the remaining items.

4.Pending investigation, the petitioner filed Cr.M.P.1315 of 2021 for return of the cash of Rs.26,00,000/- as if he is a third party and he parted the said amount as advance with the second respondent by way of unregistered sale agreement dated 06.07.2016 for purchasing a house property from the third respondent. The Court below found that the petitioner is a third party and set up person by the second respondent to seek return of the said amount. The Court below categorically stated that the remedy open to the petitioner is to move the Civil Court and the said fact can be decided only at the time of trial. If the petitioner states that the sale agreement is genuine, the petitioner ought to have filed a suit for specific performance or for recovery of the amount from the first respondent. The Court below rightly dismissed the petition filed by the petitioner and it does not warrant any interference. Therefore, the criminal revision case stands dismissed.

Sd/-

Assistant Registrar (CS-III)

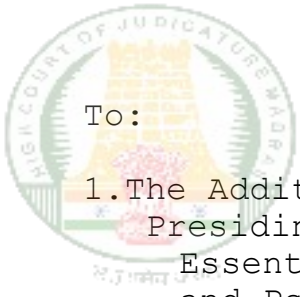
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To:

1.The Additional District and Sessions Court,
Presiding Officer Special Court for
Essential Commodities and Narcotic Drugs
and Psychotropic Substances Act,
Pudukottai.

2.The Inspector of Police,
North Police Station,
Karaikudi,
Sivagangai District.

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

CrI.R.C. (MD) No.795 of 2021
03.03.2022

RK(15/03/2022) 3P 4C