



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.01.2022

DELIVERED ON : 25.01.2022

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.974 of 2021

Andrew Binil

.. Petitioner/Petitioner

Vs.

The Inspector of Police,
Vadasery Police Station,
Nagercoil,
Kanyakumari District.
Crime No.495/2021

.. Respondent/Respondent

Prayer : This criminal revision case filed under Sections 397 and 401 of Cr.P.C., to call for the records of the impugned order passed in Crl.M.P.No.7502 of 2021 by the Judicial Magistrate No.II, Nagercoil, to set aside the same and consequently, to direct the Judicial Magistrate No.II, Nagercoil, to return the amount of Rs.12,08,900/- (Rupees Twelve Lakhs Eight Thousand and Nine Hundred only) to the petitioner.

For Petitioner : Mr.RM.Arun Swaminatha

For Respondent : Mrs.M.Aasha
Government Advocate

ORDER

This Criminal Revision Case has been filed to set aside the impugned order passed in Crl.M.P.No.7502 of 2021 by the Judicial Magistrate No.II, Nagercoil, and consequently, to direct the Judicial Magistrate No.II, Nagercoil, to return the amount of Rs.12,08,900/- (Rupees Twelve Lakhs Eight Thousand and Nine Hundred only) to the petitioner.

2. A sum of Rs.12,08,900/- (Rupees Twelve Lakhs Eight Thousand and Nine Hundred only) was seized by the respondent police in Crime No.495 of 2021, under Sections 6 (a) and 24 (1) of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, supply and Distribution) Act, 2003 and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The petitioner claiming himself as the owner of the property filed a petition in



Crl.M.P.No.7502 of 2021, for the return of the property. That petition was dismissed by the Judicial Magistrate No.II, Nagercoil, on 22.11.2021. Against the same, the petitioner has approached this Court by way of this Criminal Revision.

3. On the side of the revision petitioner, it is stated that the amount seized by the respondent was kept by the revision petitioner for the treatment of his mother, who is sick. The revision petitioner pledged his jewels in the Bank and mobilized the fund for the treatment of his mother and prayed the amount to be returned to the revision petitioner.

4. On the side of the respondent, it is stated that the amount seized from the revision petitioner is the sale proceeds of Tobacco products, which were banned by the Government. The Court has deposited the amount in the Bank for a period of three years and there is no necessity for the amount to be returned to the revision petitioner. The documents produced on the side of the revision petitioner are subsequent to the date of seizure and those documents are not connected with the amount and prayed the petition to be dismissed.

5. On the side of the revision petitioner, it is further stated that the revision petitioner has produced jewel loan receipts for mobilizing the fund and he has also produced the medical records regarding the treatment given to his mother and prayed the petition to be allowed.

6. A perusal of the records reveals that only two jewel loan receipts were in the name of the revision petitioner. The jewel loan receipt, dated 02.07.2021, for a sum of Rs.98,000/- and another jewel loan receipt, dated 05.07.2021, for a sum of Rs.50,000/- are in the name of the revision petitioner. Three other jewel loan receipts are in the name of one Rani. It is stated that the said Rani is the sister of the mother of the petitioner. One of the receipt is dated 07.12.2020 and the said Rani was not impleaded as a party in the case. If the version of the petitioner is correct, the petitioner is not the owner of the property. Only when there is a necessity, there is a possibility of a jewel loan to be obtained by a particular person. Hence, the jewel loan receipts, dated 07.12.2020, 04.02.2021, 09.03.2021, 28.04.2021, 22.07.2021, cannot be considered as amount mobilized by the revision petitioner for the treatment of his mother. The amount was seized only on 14.09.2021.

7. Only two jewel loan receipts, dated 02.07.2021 and 05.07.2021 are in the name of the revision petitioner. The sum raised through the jewel loan is only Rs.1,48,000/-. The entire amount seized from the revision petitioner is kept in a Fixed Deposit. The revision petitioner has not filed a petition for return of the said sum of Rs.1,48,000/- and the revision petitioner has not chosen to implead the said Rani as a party to the proceedings. The ownership of the property cannot be decided in this petition. Whether the money was obtained through the sale of



banned products or not, cannot be decided at this stage and hence, there is nothing sufficient enough to interfere in the orders of the trial Court.

8. In the above circumstances, this Court is not inclined to return the property to the revision petitioner. Hence, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS II)

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/ /2022

Sub Assistant Registrar(CS)

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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.II,
Nagercoil.
- 2.The Inspector of Police,
Vadasery Police Station,
Nagercoil, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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25.01.2022

MGJ(08.02.2022) 3P 4C