



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C. (MD) No.975 of 2021

WEB COPY

Rethna Kumar

...Petitioner/Accused No.2

Vs.

The State represented by
The Sub Inspector of Police,
Thiruvattar Police Station,
Thiruvattar,
Kanyakumari District.
In Crime No.378 of 2021.

...Respondent/Complainant

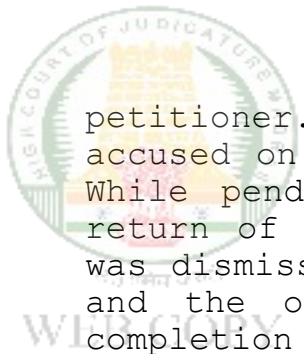
PRAYER: Criminal Revision Case filed under Section 397 and 401 Cr.P.C. praying to call for the records relating to the case in Cr.M.P. No.8922 of 2021 on the file of the Judicial Magistrate No.II, Padmanabhapuram, Kanyakumari District, dated 26.11.2021 in Crime No.378 of 2021 on the file of the respondent police and set aside the same.

For Petitioner : Mr.M.Suri
For Respondent : Mrs.M.Aasha
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Petition has been filed challenging the order passed by the learned Judicial Magistrate No.II, Padmanabhapuram, Kanyakumari District in Cr.M.P.No.8922 of 2021 dated 26.11.2021, thereby dismissing the petition filed by the petitioner for return of cash which was seized from the custody of the petitioner pursuant to Crime No.378 of 2021 on the file of the respondent herein.

2. The case of the prosecution is that on 06.08.2021 at 8.00 P.M., on a vehicle check up, the auto rickshaw bearing Registration No.TN 75 AL 9643, driven by the first accused, was stopped and searched by the respondent. They found 6 white plastic gunny bags containing tobacco products without any permission or permit. The first accused was arrested and the entire tobacco products were seized along with the auto rickshaw by the respondent. The respondent registered a case in Crime No.378 of 2021 for the offences under Section 24(1) of Cigarette and other Tobacco Products Act, 2003 and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The petitioner was arrested on 06.08.2021 and a cash of Rs.10,95,000/- was seized from the



petitioner. The petitioner has been implicated as the second accused on the basis of the confession given by the first accused. While pending investigation, the petitioner filed a petition for return of cash which was seized from his possession. However, it was dismissed on the ground that the investigation is still pending and the ownership of the cash would come to light only after completion of investigation. Further, the respondent also seized 60 gunny bags of tobacco totally weighing about 9360 kilograms from the petitioner.

3. Admittedly, the said cash was seized from the petitioner and no other claim was made by the other accused persons out of totally 5 accused persons. Further, the learned counsel for the petitioner submitted that the petitioner is ready and willing to produce the bank guarantee for release of the cash.

4. In view of the above, the impugned order passed by the learned Judicial Magistrate No.II, Padmanabhapuram, Kanyakumari District in Cr.M.P.No.8922 of 2021 dated 26.11.2021, is set aside on a condition that the petitioner shall furnish the bank guarantee for the equal sum. On such production of bank guarantee for the said amount, the Court below is directed to return the cash of Rs.10,95,000/- (Rupees Ten Lakh Ninety Five Thousand only) seized from the petitioner.

5. Accordingly, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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,
Padmanabhapuram,
Kanyakumari District.



2.The Sub Inspector of Police,
Thiruvattar Police Station,
Thiruvattar,
Kanyakumari District.
In Crime No.378 of 2021.

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

+1 CC to M/s.M.SURI, Advocate (SR-6906[F] dated 17/02/2022)

Crl.R.C. (MD) No.975 of 2021
17.02.2022

RD(03.03.2022) 3P 5C