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Crl.R.C.No.81 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2023

PRONOUNCED ON: 24.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.81 of 2022

Ezhilarasi

...

Petitioner

/vs/

State Rep.by

Station House Officer

Dhanvanthiri Nagar Police Station,

Puducherry

(Crime No.21 of 2018)

...

Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 r/w 401 Code of Criminal Procedure to set aside the order dated 15.12.2020 passed in Crl.M.P.No.4213 of 2020 by the learned Judicial Magistrate – I, Pondicherry in Crime No.21 of 2018 on the file of the respondent police and direct the respondent herein to return her properties.

For Petitioner

...

Mr.M.Govindaraju

For Respondent

...

Mr.M.V.Ramachandramurthy

Additional Public Prosecutor

(Pondicherry) Assisted by

Mr.A.Alexander, Govt.Advocate

(Puducherry).



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ORDER

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The criminal revision case has been filed to set aside the order dated 15.12.2020 passed in Crl.M.P.No.4213 of 2020 by learned Judicial Magistrate – I, Pondicherry in Crime No.21 of 2018 on the file of the respondent police and direct the respondent herein to return her properties.

2.The fact of the case is that the respondent police, on 28.01.2018 at about 21.45 hours at II Floor, Picassa Hall, Le3 Royal Park Hotel, Kamaraj Salai, Puducherry, arrested the petitioner Ezhilarasi along with the other accused persons and registered a case in crime No.21 of 2018 for the offences under Sections 27 Arms Act, 1959, 120(B) & 34 IPC. During the arrest, the police seized two knives from the accused A2 & A3. Thereafter, the case was altered into under sections 120(B), 150, 212 r/w 34 IPC & 27(1) of Arms Act 1959 and again altered to under Section 212, 120, 120(B), 115, 150, 148 r/w. 149 IPC and 27(1) of Arms Act, 1959. Upon further investigation, 6 motorcycles 1. Black colour Yamaha FZ bearing Reg.No. PY 01 CH 4507, 2. Black colour Shine bearing Reg.No.PY 01 CQ 3583, 3. Blue colour Pulsar bearing Reg.No.PY 01 CN 6193 4. Black



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colour Honda DIO bearing Reg.No.PY 01 CN 0734, 5. Black colour Splendor bearing Reg.No.PY 01 CN 6792 6. White colour Access bearing Reg.No. PY 01 CR 1399 and an Arctic white colour Swift car bearing Reg.No. PY 01 BK 7077. Also 1.Cash Rs.58,000/- Cell Phones, 2.One Black colour Small Apple Phone, 3. One black colour Apple phone, 4. One gold colour Samsung phone, 5. One black colour Samsung Phone, 6. One black colour Samsung phone with Keypad, 7. One white colour sony laptop, 8. one black colour Sony Digital Video camera 9. two diaries, 10. one note book 11. two photo Albums, 12.Two sets of dress materials of accused A1 Ezhilarasi @ Meera 13.Two sets Jean pant and one full hand neck banian of accused A2 Vikraman were seized.

3.Before the learned Judicial Magistrate No.I, Pondicherry, the petitioner filed an application in CrI.M.P.No.4213 of 2020 in Cr.No.21 of 2018 for returning the abovesaid properties, which were seized by the respondent police. The learned Judge, after considering the submission of the learned counsel for the parties, dismissed the petition by passing the impugned order dated 15.12.2020, which is under challenge.



4.Now, the petitioner filed this petition seeking interim custody of

the following properties.

<i>Sl.No.</i>	<i>Property Details</i>	<i>Quantity in Nos/Amount in Rupees</i>
1.	Cash Denomination 2000 x 28 = Rs.56,000/- 500 x 02 = Rs.1000/- 200 x 03 = Rs.600/- 100 x 02 = Rs.200/- 50 x 04 = Rs.200/-	Rs.58,000/-
2.	Black Colour Small Apple I Phone with Idea sim (89918734091757121588)	1
3.	Black Colour Big Apple I Phone with 4G Airtel Sim (H289919409122401749740)	1
4.	Gold Colour Samsung Phone (IMEI No.358972108/345594/7, 358973/08/345594/5) with BSNL Sim No.8991806124451334531 & Airtel 4G Sim No.H18991940912997950913U	1
5.	Black Colour Samsung Phone (IMEI No.359041/05/210573/2) with Battery without Sim.	1
6.	Black Colour Samsung with Keypad (IMEI No.353568/09/174504/1) with Battery and Sim	1
7.	Dairy	2
8.	Note Book	1



<i>Sl.No.</i>	<i>Property Details</i>	<i>Quantity in Nos/Amount in Rupees</i>
9.	Photo Album	2
10.	White colour small Laptop (Model PCG – 71811w) with Charger	1
11.	Black colour small digital video camera recorder (Model No.DCR – SR20E)	1
12.	Dress Materials 2 sets (i.e.) 1.Dark Brown Colour Top -1 2.Light and Dark Colour Shawl with Sandal Colour Design 3.Light Brown Colour Pant with Sandal Colour Design 4.Two White Colour with Orange, Violet and yellow Colour Design Night Dress	

5.The learned counsel for the petitioner submitted that these seized properties are belonged to the petitioner, which are not related to any other offences. The case is falsely registered by the respondent police and the trial Court also failed to consider the fact properly. Therefore, pleaded to set aside the impugned order and to return the interim custody of the abovesaid properties.



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6.Mr.M.V.Ramachandramurthy, the learned Additional Public Prosecutor (Pondicherry) Assisted by Mr.A.Alexander, learned Govt.Advocate, (Puducherry) objected to return the properties and further contended that this petitioner Ezhilarasi @ Meera had involved three murder cases at Karaikal and Sirkali. In the diary and the notebook, various mobile numbers and addresses are noted. These properties were seized from a rented house arranged by one of the accused (A14). Therefore, if the properties are returned to the petitioner, it is not possible to use them as evidence during the trial. Hence, there is no ground to interfere with the impugned order passed by the trial Court and pleaded to dismiss the criminal revision case.

7.I have considered the matter in the light of the submissions made by the learned counsel for both the parties.



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8.A perusal of the records reveals that the respondent police on 28.01.2018 at about 21.45 hours arrested the petitioner along with the other accused and the respondent police initially registered a case in Crime No.21 of 2018 for the offences under Sections 27 Arms Act, 1959, 120(B) & 34 IPC. Thereafter, the case was altered into sections 120(B), 150, 212 r/w 34 IPC & 27(1) of Arms Act 1959 and again altered to under Section 212, 120, 120(B), 115, 150, 148 r/w. 149 IPC and 27(1) of Arms Act, 1959. Thereafter, they searched the rented house arranged by one of the accused (A14) Soundararajan @ Gopalakrishnan for the petitioner and seized the abovesaid properties. During the course of argument, the learned counsel for the petitioner submitted that the respondent police may take the sim card in the I phone for the purpose of investigation and make the Xerox copy of diary and notebook and also may take particulars in the laptop, in the video digital camera, it may be returned to the petitioner. Further, the cash of Rs.58,000/- and dress materials are immaterial for the purpose of investigation and may be returned to the petitioner.



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9. Considering the submission of the learned counsel for the petitioner, I find that though the case has been registered against the petitioner along with the other accused, the respondent police has not furnished any materials to show that the cash of Rs.58,000/-, the dress materials belong to the petitioner and the photo album, which were seized by the respondent police, are involved in any case, that may be returned to the petitioner. With regard to the other properties, the contention of the learned Public Prosecutor (Puducherry) that since the petitioner is involved in other murder cases and investigation is pending, without completing the investigation, the properties cannot be returned to the petitioner, is accepted.

10. Therefore, the impugned order dated 15.12.2020 passed in Cr.M.P.No.4213/2020 in Cr.No.21 of 2018 by the trial Court is hereby set aside with regard to the cash of Rs.58,000/-, photo album and dress materials and with regard to the other properties, the impugned order is confirmed. Hence, the petitioner is entitled to get interim custody of the



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properties, i.e. (i) cash of Rs.58,000/-, (ii) photo album and (iii) dress materials. Therefore, it is ordered to be returned to the petitioner on condition that the petitioner shall execute a bond for a sum of Rs.60,000/- before the trial Court.

In view of the above, the criminal revision case is partly allowed.

Index : Yes/No
Internet : Yes/No
sms

24.02.2023

To

1. The learned Judicial Magistrate – I,
Pondicherry.
- 2.State Rep.by Station House Officer
Dhanvanthiri Nagar Police Station,
Puducherry.(Crime No.21 of 2018)
- 3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

sms

Pre-delivery order made in
Crl.R.C.No.81 of 2022

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