



Crl.R.C.No.423 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.423 of 2023

Gowtham

... Petitioner

Vs.

State, represented by
the Inspector of Police,
C2-Race Course Police Station,
Coimbatore District.
(Cr.No.350 of 2022)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C. to set aside the order dated 27.12.2022 made in Crl.M.P.No.38855 of 2022 on the file of the Judicial Magistrate Court-III, Coimbatore.

For Petitioner : Mr.S.N. Arunkumar

For Respondent : Mr. R.Vinothraja
Govt. Advocate (crl.side)



Crl.R.C.No.423 of 2023

WEB COPY

ORDER

Challenging the order, dismissing the petitioner's application filed under Section 451 r/w. 457 of Cr.P.C, passed by the Judicial Magistrate Court-III, Coimbatore in Crl.M.P.No.38855 of 2022, dated 27.12.2022 to return the iphone-11 along with Geo Sim, the present Revision has been filed.

2. The learned counsel for the petitioner submitted that the petitioner was arrayed as an accused No.1 in Crime No.350 of 2022 for the offence punishable u/s.7(1), 20(2) of Cigarette and other Tobacco Products Act, 2003 and section 328 of IPC, as he was found in illegal possession of articles which were banned by the Tamil Nadu government. While he was arrested the respondent police seized his mobile phone viz., Light Green Colour i phone 11 from the petitioner and the same was remanded before the learned Judicial Magistrate No.III, Coimbatore. He further submitted that the said mobile phone is no way connected with the offence and he is not having previous bad antecedents. The trial court, without considering



Crl.R.C.No.423 of 2023

the above fact, dismissed his petition seeking return of above said cell phone. Hence he seeks to set aside the impugned order and to allow the criminal revision case.

3. The learned Govt. Advocate (crl.side) submitted that the police registered a case against the petitioner in Crime No.350 of 2022 for the offence u/s.7(1), 20(2) of Cigarette and other Tobacco Products Act, 2003 and section 328 of IPC. At the time of arresting the petitioner/accused, the respondent police, while seizing the banned articles, seized his i-phone 11 also. The same was produced before the trial court and now it is under the custody of court below. Thus he objected to return of cell phone.

4. Heard both sides and perused the materials available on record.

5. Perusal of records reveals that the petitioner was arrayed as an accused in Crime No.350 of 2022 by the respondent police for the offence punishable u/s.7(1), 20(2) of Cigarette and other Tobacco Products Act,



Crl.R.C.No.423 of 2023

2003 and section 328 of IPC. On 13.08.2022, he was arrested and his mobile phone was seized along with other banned articles and the same was remanded before the learned Judicial Magistrate No.III, Coimbatore. According to the petitioner, the cell phone is no way connected with the offence and also the petitioner is having no previous bad antecedents.

6.Considering the nature of the offence and the cell phone is not connected with the offence committed by the petitioner and also the petitioner is not having any previous bad antecedents, this Court is inclined to grant custody of cell phone to the petitioner.

7. Accordingly, the impugned order passed by the Court below is set aside and the Judicial Magistrate III, Coimbatore is directed to return the Light Green Colour i phone 11 to the petitioner on complying the following conditions.

- i. the petitioner shall prove his ownership of the Light Green Colour i phone 11;



Crl.R.C.No.423 of 2023

- ii. the petitioner shall not alienate or encumber the mobile phone in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) before the Judicial Magistrate No.III, Coimbatore.
- iv. the petitioner shall also produce the mobile phone as and when required before the court below and before the respondent police.

8. Accordingly, the Criminal Revision is allowed

06.03.2023

msr

Index:yes/no

Internet:yes/no

To

1. The Judicial Magistrate Court-III, Coimbatore.
2. The Inspector of Police,
C2-Race Course Police Station,
Coimbatore District.
3. The Public Prosecutor,
High Court of Madras, Chennai.

5 of 6



WEB COPY



Crl.R.C.No.423 of 2023

V.SIVAGNANAM, J.,
msr

Crl.R.C.No.423 of 2023

06.03.2023

6 of 6