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Crl.R.C.No.319 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.319 of 2023

Sornasenthil

... Petitioner

Vs.

The State

rep, by the Inspector of Police,
Central Crime Branch,
Veppery, Chennai-07

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973, to set aside the order passed by the learned Judicial Magistrate No.1, Tambaram, dated 30.01.2023 in Crl.M.P.No.159 of 2023.

For Petitioner : Mr.R.Nageshwara Rao

For Respondent : Mr.R.Vinothraja

Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Judicial Magistrate No.1, Tambaram, dated 30.01.2023 in Crl.M.P.No.159 of 2023.

2.It is the case of the prosecution that on 15.12.2021, the defacto complainant namely Tr.R.Soma Sundaram lodged a complaint before the respondent police stating that the petitioner gave a false assurance to the defacto -complainant and the other victims to secure jobs in Central Government, Coast Guard Department for the post of Store Keeper, Foreman, Pune and Technical Trade's Man. The petitioner induced the defacto complainant and other victims to pay money and believing the false promise of the petitioner, the victims collected a sum of Rs.5,00,00,000/- [Rupees Five Crores only] and gave it to the petitioner between the period of May to December 2020 at various places at Chennai. Thereafter, the petitioner said to have issued fake appointment orders to the victims

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through the mobile phones. After receiving the money, it is alleged that the petitioner neither secured the job nor returned the money. Hence the complaint.

3. Based on the above complaint, a case was registered in Central Crime Branch, in Crime No. 131 of 2021, under Sections 406, 420, 465, 468, r/w 34 IPC on 16.12.2021 at about 14.00 hours against the accused persons by Tr. Murugesan, the then Inspector of Police, Central Crime Branch, Tambaram and took up the case for investigation. During the course of investigation, that on 16.12.2021, the then Inspector of Police arrested the accused A-2 /Somasenthil, A-1/ Hemalatha and A-3/ Rajesh Raguram and recorded their confession statements and seized I Phone X 10 Cell Phone vide IMEI No. 354855097762925 & 1 Phone 12 Pro Vide IMEI No 356695117224763 under the cover of seizure Mahazar in the presence of witnesses. During further course of investigation, the then Inspector of Police had gave a requisition to the Cyber Crime Cell to get the Call Detail of registered cell phone number of accused person and obtained the report.



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From the CDR Report, the then Inspector of Police collected the details of transactions, messages and call details of the accused.

4. It appears that the petitioner is the owner of the above mentioned iPhones and he filed a petition in Crl.M.P.No.159 of 2023 before the Trial Court to hand over the interim custody of the same to him. But it was dismissed vide order dated 30.01.2023 by the Court below considering the stage of investigation and nature of offence and there is every likelihood of disposing or alienating or dismantling the iPhones if the same are handed over to him. Hence, challenging the above said order, the petitioner filed the present Revision case.

5. The learned counsel for the petitioner submitted that the petitioner was the accused in Crime No.131 of 2021 for the offences punishable under Sections 406, 420, 465, 468, r/w 34 IPC, as he collected huge amount of money with criminal intention, by giving false assurance to the victims to secure jobs in Central Government. While he was arrested, the respondent police



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seized his I Phone X 10 Cell Phone vide IMEI No. 354855097762925 & 1 Phone 12 Pro Vide IMEI No 356695117224763 from the petitioner. He further submitted that the said iPhones are no way connected with the offence and he is not having previous bad antecedents. The trial court, without considering the above fact, dismissed his petition seeking to return of above said iPhones. Hence he seeks to set aside the impugned order and to allow the criminal revision case.

6.The learned Government Advocate (Criminal Side) submitted that the petitioner is the accused in Crime No.131 of 2021 for the offences punishable under Sections 406, 420, 465, 468, r/w 34 IPC. At the time of arresting the petitioner, the respondent police, seized his iPhones. The same were produced before the trial court and now it is under the custody of Court below. He further submitted that the details of the contact numbers have to be collected from the iPhones and also at the stage of investigation it cannot be returned. Thus, he objected to return of iPhones to the petitioner.



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

8.Perusal of records reveals that the petitioner was arrayed as accused in Crime No.131 of 2021 for the offences punishable under Sections 406, 420, 465, 468, r/w 34 IPC, he was arrested and his iPhones were seized and he was remanded before the learned Judicial Magistrate I, Tambaram. According to the petitioner, iPhones no way connected with the offence and also the petitioner is having no previous bad antecedents.

9.Considering the nature of the offence and the iPhones are not required for further investigation and also the fact that the petitioner is not having any previous bad antecedents, this Court is inclined to grant custody of iPhones to the petitioner.

10.Accordingly, the impugned order dated 30.01.2023 passed



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by the Court below is set aside and the learned Judicial Magistrate I, Tambaram is directed to return the iPhones to the petitioner on complying the following conditions:-

- (i) the petitioner shall prove his ownership of the iPhones by producing the relevant records;
- (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.75,000/- (Rupees Seventy Five Thousand Only) for each iPhone before the learned Judicial Magistrate I, Tambaram;
- (iv) the petitioner shall give an undertaking that he will not use the iPhones for any illegal activities in future,
- (v) the petitioner shall take photograph of the iPhones; and
- (vi) the petitioner shall also produce the iPhones as and when required before the court below and before the respondent police.



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11.In fine, the Criminal Revision is allowed.

15.03.2023

Index: Yes/No
Internet: Yes/No
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To

1. The learned Judicial Magistrate I, Tambaram
2. The Inspector of Police,
Central Crime Branch,
Veppery, Chennai-07
3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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