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Crl.O.P.No.8377 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.8377 of 2023

A.Azizul Kareem

...Petitioner

Vs.

The State Rep by its,
The Assistant Commissioner of Police,
Forgery Investigation Wing,
Central Crime Branch,
Vepery, Chennai – 600 007.

...Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records pertaining to Crl.R.C.No.275 of 2022 order dated 02.02.2023 on the file of learned Principal Sessions Judge, City Civil Court, at Chennai and set aside the same with continue in Crl.M.P.No.26178 of 2022 order dated 15.09.2022.

For Petitioner : Mr.C.V.Kumar
For Respondent : Mr.S.Santhosh
Government Advocate (crl.side)



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ORDER

This Criminal Original Petition has been filed to call for the records pertaining to Crl.R.C.No.275 of 2022 order dated 02.02.2023 on the file of learned Principal Sessions Judge, City Civil Court, at Chennai and set aside the same.

2.The learned counsel for the petitioner submitted that petitioner is the accused in C.C.No.6663 of 2022 of CCB, Egmore. The respondent Police had seized a sum of Rs.6,00,000/-, gold jewels weighing 35 sovereigns and 1.5 grams along with certain other properties. Seized properties were remanded before the Court as case properties. Petitioner had earlier filed petition for return of these properties as interim custody and that was dismissed. The matter went upto Hon'ble Supreme Court. The Hon'ble Supreme Court in Special Leave to Appeal (Crl)No.9603 of 2021 dismissed the petition. However, gave liberty to the petitioner to file appropriate petition after filing of chargesheet. Thus, the petitioner filed Crl.M.P.No.26178 of 2022 before the learned Metropolitan Magistrate, For Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai and



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CBCID Metro cases, Egmore, under Section 457 of Cr.P.C. for return of the aforesaid case properties. That petition was dismissed. Petitioner filed Crl.R.C.No.275 of 2022, challenging the order of dismissal passed by the learned Metropolitan Magistrate, Egmore. The learned Principal Sessions Judge, Chennai, had also dismissed Crl.R.C.No.275 of 2022. Therefore, this petition.

3.It is the submission of learned counsel for the petitioner that case properties do not relate to the offence alleged against the petitioner. These properties are individual and independent properties of the petitioner and they are unnecessarily seized by the respondent Police. Petitioner is prepared to give an undertaking to produce the properties, as received from the Court, whenever required by the Court. Thus, he prayed for setting aside the order passed by the learned Principal Sessions Judge, Chennai, in Crl.R.C.No.275 of 2022.

4.In response, the learned Government Advocate (Criminal side) submitted that the case properties are proceeds of crime. The entitlement of



the petitioner to the case properties would be decided only at the conclusion of the trial. The Hon'ble Supreme Court had only directed to file appropriate petition after filing of the final report and in the event of filing petition that would be considered in merits and in accordance with law. Both the Courts below have rightly considered petitioner's prayer and dismissed the petitions on merits and thus he prayed for dismissal of this petition.

5.Considered the rival submissions and perused the records.

6.The perusal of the final report shows that final report was filed against the petitioner for the offences under Sections 419, 420, 465, 467, 468, 471, 120 (B) & 109 I.P.C. The gist of the allegations made against the petitioner are that petitioner was a tenant in respect of vacant land measuring 2183 sqft in Survey Old No.129 and New No.98, Pavalakara Street, Chennai. Petitioner was not paying the rent properly. Therefore, the owners wanted the petitioner to vacate the land. The petitioner, without vacating the land created a fabricated and forged sale agreement dated



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02.06.2014, as if the owners agreed to sale this property. In the sale agreement, he had forged the signature of Padma who was dead on 29.12.1989 and Gurunadhan who was dead on 30.01.2010. Petitioner has also created forged receipts as if the owners received various monies from him. On this set of allegations, the petitioner is now facing the trial.

7.The order of learned Principal Sessions Judge, Chennai, in Crl.R.C.No.275 of 2022, shows that the properties seized and produced as case properties are proceeds of crime. The entitlement of these properties to the petitioner would be decided only at the conclusion of trial. If the properties are now returned to the petitioner, it would affect the outcome of the case. Thus, on going through the records, the specific charges against the petitioner and the prosecution case that the properties seized from the petitioner are proceeds of crime, this Court does not find any merit for returning the properties to the petitioner. As rightly observed by the Courts below, petitioner has to wait for the outcome of the trial. In the event of petitioner is found not guilty of the charges levelled against him, then he has better chance of seeking custody of the properties.



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WEB COPY 8. In this view of the matter, this Court finds there is no illegality in dismissing Crl.R.C.No.275 of 2022 passed by the learned Principal Sessions Judge, Chennai. Accordingly, order dated 02.02.2023 in Crl.R.C.No.275 of 2022 passed by the learned Principal Sessions Judge, Chennai, is confirmed and this Criminal Original Petition is dismissed.

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Index: Yes/No
Speaking/Non speaking order
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To:-

- 1.The Principal Sessions Judge,
City Civil Court, at Chennai.
- 2.The Assistant Commissioner of Police,
Forgery Investigation Wing,
Central Crime Branch,
Vepery, Chennai – 600 007.
- 3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.

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