



Crl.R.C.No.704 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

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THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.No.704 of 2023

N.Nagarajendran

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Thuraipakkam Police Station
Chennai.
(Crime No.13/2023)

... Respondent

Prayer: Criminal Revision Case filed under section 397 r/w 401 Cr.P.C. to call for records and set aside the order dated 17.03.2023 made in Crl.M.P.No.395 of 2023 by the learned Judicial Magistrate No.II, Alandur.

For Petitioner : Mr. M.Vignesh for
M/s.S.Syed Mazhar Hayath

For Respondent : Mr. R. Vinothraja,
Government Advocate (Crl.side)



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ORDER

Challenging the order dated 17.03.2023 made in Crl.M.P.No.395 of 2023 by the learned Judicial Magistrate No.II, Alandur, this Criminal Revision Case has been filed.

2 The petitioner, who is an Youtuber, has without prior approval indulged in unauthorised Drone video shooting of World Trade Centre, Perungudi, Chennai. Hence the Assistant General Manager, Facility Head, World Trade Centre, has lodged a complaint against the petitioner, based on which the respondent police registered a case against the petitioner in Cr.No.13/2023 for the offence under Sections 287 and 336 of IPC and they have also seized the Drone, which involved in unauthorised video shooting of World Trade Centre, Perungudi, Chennai. Since the petitioner is the owner of the Drone, he filed a petition in Crl.MP.No.395 of 2023 before the learned Judicial Magistrate No.II, Alandur, for return of property. The trial court dismissed the petition considering the objection made by the respondent to return the property.



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3 The learned counsel for the petitioner contended that no purpose will be served in keeping the property under the custody of respondent police and if the Drone is kept idle for a long time, it would cause damage to the property and also would depreciate its value and user capacity. The petitioner is ready to give appropriate guarantee as well as security for return of the property and also he will produce the same, as and when required either before the respondent police or before the trial court. Hence, he prayed to return the property and he is ready to obey any condition imposed on him by this Court.

5 The learned Govt. Advocate (Crl.side) objected to return of property, stating that the same was used for unauthorised Drone video shooting and if the property is ordered to be returned, he may use the same for committing same offence. He fairly conceded that the petitioner has not involved in any previous case of similar in nature.

6 Heard both sides and perused the entire materials available on record.

7 A perusal of the records would reveal that a complaint was given



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by one M.Nagaraj, Assistant General Manager, Facility Head, World Trade Centre, Perungudi, Chennai, stating that the petitioner has without prior approval indulged in unauthorised Drone video shooting of World Trade Centre, Perungudi, Chennai, which is highly prohibited by the policy of the office. Pursuant to which, a case has been registered by the respondent police on 14.01.2023 in Cr.No.13 of 2023 for the offence under Sections 287 and 336 of IPC and Drone has also been seized.

8 Perusal of records would further reveal that the petitioner is the owner of property and he is ready to give guarantee and security for returning the property. If the Drone is being kept idle, it would cause damage to the property and the value of the property is diminished. Further, the Honourable Supreme Court in the case of **Sunderbhai Ambalal Desai and others Vs.State of Gujarat in Special Leave Petition (crl.) 2745 of 2022** dated 01.10.2002 has held that in order to protect the property, the Apex Court has directed to handover the seized articles to the owner on proper Panchnama.

9 Considering the above aspects and also the ratio laid down by the



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Hon'ble Apex Court, this Court is of the view that keeping the property idle will diminish its nature and lose its value and no purpose will be served. As such, considering the nature of offence and also taking into account the fact that the petitioner has not involved in any other case similar in nature previously, this Court is inclined to allow the Criminal Revision Case.

10 In the result, this Criminal Revision Case is allowed and the impugned order dated 17.03.2023 passed in C.M.P.No.395 of 2023 by the learned Judicial Magistrate No.II, Alandur, is hereby set aside. The interim custody of the Drone is ordered to be handed over to the petitioner, who is the owner of the same on the following conditions;

- i. the petitioner shall prove his ownership of the property by producing the relevant records;
- ii. the petitioner shall execute a personal bond for a sum of Rs.1,50,000/-(Rupees One lakh and fifty thousand only) before the learned Judicial Magistrate No.II, Alandur, and the learned Magistrate, shall not insist for production of solvency certificate.
- iii. The Court may prepare a panchnama in Judicial Form No.82 with regard to the property and such panchanama can be used in evidence.



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- iv.the petitioner may take photograph of the property and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- v. the petitioner shall not alienate or encumber the property in any manner;
- vi.the petitioner shall give an undertaking that he will not use the property for any illegal activities in future;
- vii.the petitioner shall also produce the property as and when required before the court below and before the respondent police.

Index: yes/no

Internet:yes/no

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To

1. The Judicial Magistrate No.II, Alandur.
2. The Inspector of Police, Thuraipakkam Police Station, Chennai.
3. The Public Prosecutor, Madras High Court.

V. SIVAGNANAM, J.

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