



WEB COPY



Crl.RC.No.1134 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2023

CORAM:

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1134 of 2020

P.Marimuthu @ Suresh Kumar
...Petitioner

Vs.

State rep. by
The Inspector of Police,
C.C.B-II, Chennai
(Cr.No.81/2019)
...Respondent

Prayer: Criminal Revision filed under Sections 397 & 401 of Criminal Procedure Code, against the dismissal order passed on him by the Judicial Magistrate – I, Tambaram in Crl.M.P.No.1309/2020 order dated 28.08.2020 on his file.

For Petitioner : Mr.T.V.G.Kartheeban
for M/s.C.Srinivasan

For Respondent : Mr.R.Murthi
Government Advocate (Crl.Side)



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ORDER

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2. Aggrieved over the same, the petitioner has filed a revision before this Court.

3. Learned counsel for the petitioner would submit that the properties belongs to the petitioner and during the investigation wrongly recovered the property and they are retaining the property unlawfully without any Authority of law as per the decision of the Hon'ble Supreme Court in the case of *Sunderbhal Ambalal Desai vs. State of Gujarat* reported in *2002 Supp(3) SCR 39*. Neither the Police nor the Court can keep the property and they should return the property to the owner of the property and the learned Magistrate has not considered and dismissed.



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4.Learned Government Advocate (Criminal Side) would submit that the petitioner is also one of the accused, who is arrayed as A2 and the investigation is pending and therefore, the learned Magistrate had rightly dismissed as there is no merit.

5.Heard learned counsel for the petitioner and learned Government Advocate (Criminal Side) for the respondent and perused the records available before this Court.

6.Admittedly, the petitioner has been arrayed as A2 in Crime No.81 of 2019 on the file of the respondent Police, pending investigation, the Investigating Officer had seized certain properties from the petitioner, pending investigation, the petitioner had filed the petition by invoking Sections 451 read with 457 of Cr.P.C.

7.It is a settled proposition of law the pending investigation, return of properties is purely discretionary power of the Court and the party cannot claim as a matter of right since the investigation is yet to be completed and charge sheet is yet to be filed. The citation referred to by the learned counsel for the petitioner is not applicable to the present case



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on hand, since in this case, the investigation is not yet completed and the charge sheet is not yet filed. The decision rendered by the Hon'ble Supreme Court is referred to by the learned counsel for the petitioner is entirely different which is not applicable to the case on hand. Therefore, the Revision is dismissed. However, considering the crime is of the year 2019 and the Respondent Police is directed to complete the investigation within a period of three months and file a charge sheet before the Jurisdictional Magistrate, failing which, the Concerned Inspector General of Police is to appear before this Court.

8. With the above observation and direction, this Criminal Revision is dismissed.

10.01.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
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To
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- 1.The Judicial Magistrate – I,
Tambaram.
- 2.The Public Prosecutor,
Madras High Court, Chennai.
- 3.The Inspector of Police,
C.C.B-II, Chennai.
(Cr.No.81/2019)



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P.VELMURUGAN, J.

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