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Crl.R.C.No.1752 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1752 of 2023

V.Senthilmurugan

... Petitioner

Vs.

The Inspector of Police,
V4 Rajamangalam Police Station,
Chennai.
[Crime No.328 of 2023].

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order in Crl.M.P.No.39243 of 2023 on the file of the XIII Metropolitan Magistrate Court at Egmore, Chennai, dated 21.09.2023 by allowing this criminal revision petition.

For Petitioner	:	Mr.S.Lokesh
For Respondent	:	Mr.A.Damodaran, Additional Public Prosecutor

ORDER

The petitioner/accused in Crime No.328 of 2023, for offence under Sections 5 & 7(3) of the Lotteries Regulation Act, 1998 has filed a petition under Section 451 of Cr.P.C., in Crl.M.P.No.39243 of 2023 in Crime No.328 of 2023 before the learned XIII Metropolitan Magistrate, Egmore, Chennai seeking return of his mobile phone, namely, VIVO Y51 A. The Court below dismissed the return of property petition, by order, dated 21.09.2023.



Aggrieved over the same, the present criminal revision case.

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2.The contention of the petitioner is that the petitioner is a flower merchant running a wholesale business in the name of S.P.Yashini Flower Shop opposite to Kolathur Muthumari Amman temple. When the petitioner was busy with the business, the respondent Police came to the shop, took him along with them and informed that he is needed for enquiry. Thereafter, the above case foisted against him on 01.08.2023. On the same day, the respondent Police let out the petitioner and directed to produce his mobile phone, which the petitioner produced. It is not in dispute that the petitioner only produced the mobile phone in which he has got all his contact details and his customers contact numbers. Due to the seizure and detention of his mobile phone, the petitioner is unable to carry on his business and he is suffering huge loss. For the purpose of business, the mobile phone is very much needed. The respondent Police can take screenshots of the particulars in the mobile phone if the mobile phone is required for investigation. Hence, he prayed for setting aside the order of the Court below.

3.The learned Additional Public Prosecutor appearing for the respondent Police opposed the submissions of the learned counsel for the petitioner stating



that the mobile phone, namely, VIVO Y51 A was seized from the petitioner.

The petitioner involved in online lotteries which is banned in State of Tamil Nadu. The petitioner's mobile phone has got all vital details with regard to the online lottery, contact person and other particulars. Apart from the mobile phone, from the petitioner, some small chit papers collected which is also correlated and confirmed about the details found in the mobile phone and the same are very much essential and needed for investigation. He further submitted that the investigation is at initial stage, the case has been registered recently on 01.08.2023. The mobile phone has to be sent for forensic examination to retrieve datas stored for the purpose of investigation. Hence, the mobile phone cannot be returned to the petitioner which fact was considered by the Court below. Now, there is no change in circumstances, he strongly opposed the criminal revision case.

4.Considering the submissions and on perusal of the materials, it is seen that the allegation against the petitioner is, he using his mobile phone involved in online lottery. Now, the mobile phone is in custody of the respondent Police which is needed for investigation for the purpose of retrieving datas and other particulars. The mobile phone has to be sent to the forensic expert.



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M.NIRMAL KUMAR, J.

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5.In view of the above, this Court is not inclined to entertain this criminal revision. Accordingly, this Criminal Revision Case stands dismissed for the present.

18.10.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

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To

1.The XIII Metropolitan Magistrate Court,
Egmore, Chennai.

2.The Inspector of Police,
V4 Rajamangalam Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

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