



WEB COPY



CrI.R.C.(MD).No.993 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

CrI.R.C.(MD).No.993 of 2022

Hathija Beevi

... Petitioner/Defacto Complainant

Vs.

State through rep. by
The Inspector of Police,
Ayyampettai Police Station,
Ayyampettai,
Thanjavur District.
(Crime No.128 of 2022)

... Respondent/Complainant

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.1373 of 2022, dated 09.06.2022 on the file of the learned Judicial Magistrate No.III, Thanjavur and set aside the same and direct the respondent to return of property of 12.73 sovereigns of gold jewels and Rs.24,500/- cash in connection with Crime No.128 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Sankar

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor



Crl.R.C.(MD).No.993 of 2022

ORDER

WEB COPY

This criminal revision case has been filed against the order passed in Cr.M.P.No.1373 of 2022, dated 09.06.2022 on the file of the learned Judicial Magistrate No.III, Thanjavur.

2.This petitioner is the defacto complainant, in her capacity as owner, she filed a petition under Sections 451 and 457 of Cr.P.C. before the trial Court, seeking interim custody of the jewels that are involved in the above said crime. The above said property has been recovered and remanded before the trial Court. That petition was dismissed on the ground that apart from this petitioner other legal heirs are available to the petitioner's father. But, the counsel for the petitioner submitted that he has also produced the document in the form of affidavit, dated 16.05.2022, from the brothers of the petitioner namely Mohammed Ariff, Mohammed Kasim, Mohammed Rafik and Mohammed Ali, before the trial Court, by which, they have given their consent for return of the above said articles. But, it appears that the above said document that was not even discussed or considered by the trial Court. According to him, the original document has been produced before the concerned trial Court. Only copy has been produced in this Court.



Crl.R.C.(MD).No.993 of 2022

3.Considering the above said fact that the affidavit filed by the other legal heirs giving their consent, there can be no objection by the respondent police with regard to the return of the above said articles as interim custody.

4.In view of the above said submissions, this criminal revision case is **allowed** and the order, dated 09.06.2022, passed by the learned Judicial Magistrate No.III, Thanjavur, in Crl.M.P.No.1373 of 2022 is hereby set aside. The trial Court, after taking photographs of the articles, by following the proper procedure and by making proper record in the presence of complainant and the respondent, return the articles to the petitioner, with conditions as it deem it fit.

04.01.2023

Index : Yes / No
Internet : Yes / No
TM

To

1.The Judicial Magistrate No.III, Thanjavur.

2.The Inspector of Police,
Ayyampettai Police Station,
Ayyampettai,
Thanjavur District.



WEB COPY



CrI.R.C.(MD).No.993 of 2022

G.ILANGO VAN,J.

TM

CrI.R.C.(MD).No.993 of 2022

04.01.2023