



Crl.R.C.(MD).No.987 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.09.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC.(MD).No.987 of 2023

V.Kumaran

... Petitioner

Vs.

The Sub-Inspector of Police,
Irukkankudi Police Station,
Irukkankudi,
Virudhunagar District.
(Crime No.95 of 2022)

... Respondent

PRAYER: Petition filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records in connection with the order passed by learned Judicial Magistrate Court No.II, Sattur in Crl.M.P.No.4892 of 2023 dated 31.07.2023 and set aside the same as illegal and to return the crackers/articles to the petitioner.

For Petitioner : Mr.M.Solaisamy

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl Side)



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ORDER

This Criminal Revision Case has been filed as against the order passed by the learned Judicial Magistrate No.II, Sattur in Crl.M.P.No.4892 of 2023, dated 31.07.2023.

2. The petitioner is having a license to run a retail shop for selling crackers. In the month of October 2022, the petitioner purchased more crackers from various fireworks in bulk for a sum of Rs.3,38,290/-. After purchasing the above crackers, on 18.10.2022, the petitioner carried the goods through a lorry to Chennai, where he is running the cracker retail shop. In such circumstances, due to heavy rain, the petitioner could not carry the crackers to Chennai. Therefore, the vehicle was parked at Periya Kollapatti Village and the crackers were kept safely at his friend's shed to prevent the same from getting moisture. At that time, the Village Administrative Officer, Periya Kollapatti lodged a complaint before the respondent police. On the basis of the complaint, the respondent police seized the entire crackers on 18.10.2022 and registered a case against the



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petitioner in Crime No.95 of 2022, under Section 9(B) 1(b) of Indian Explosive Act.

3. Thereafter, the petitioner herein filed a petition in CrI.M.P.No. 4892 of 2023, under Section 451 of Cr.P.C., before the Judicial Magistrate Court No-II, Sattur, to return his crackers. The learned Judicial Magistrate No-II, dismissed the same on 31.07.2023. Aggrieved over the same, the petitioner filed the Criminal Revision Case before this Court.

4. The learned counsel for the petitioner submitted that if the crackers would be put in the custody of the Court or the respondent police, it will be perished and no one can use the same. Hence, he seeks to allow this case.

5. It is not disputed by the prosecution that the petitioner has obtained proper license to run the retail shop for selling crackers at Chennai. The respondent police registered the case only on the premise that the petitioner without any license, he stored the fire crackers in Virudhunagar.



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Hence, the disputed question whether the petitioner intended to store or sell the same in Virudhunagar is disputed question and the same would be decided at the end of the trial. At this stage, keeping the crackers in the respondent's custody is not only safe and also they have not jurisdiction to retain the same. Hence, in the said circumstances, this Court is inclined to pass the following order:

(i) The order impugned passed by the learned Judicial Magistrate No-II, Sattur, in Crl.M.P.No.4892 of 2023, dated 31.07.2023 is set aside;

(ii) The petitioner is directed to deposit a sum of Rs.1,50,000/- before the learned Judicial Magistrate No-II, Sattur. On receipt of such deposit, the learned Judicial Magistrate No-II, Sattur shall release the goods;

(iii) The petitioner is directed to file an undertaking affidavit before the learned trial Judge that he shall pay the valuation of the amount in the event of conviction.

(iv) The learned Judicial Magistrate No-II, Sattur, is hereby directed to deposit the amount which was deposited by the petitioner in any one of the Nationalized Bank in interest bearing account.



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6. With the above directions, this Criminal Revision Case stands allowed.

07.09.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn

To

- 1.The Sub-Inspector of Police,
Irukkankudi Police Station,
Irukkankudi,
Virudhunagar District.
- 2.The learned Judicial Magistrate No-II,
Sattur.

Note: Issue order copy on 06.10.2023



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K.K.RAMAKRISHNAN, J.

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