



Crl.R.C.(MD).No.1061 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.09.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1061 of 2023

Ravikumar

... Petitioner/Petitioner

Vs.

The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram.
Crime No.218 of 2022

... Respondent/Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order passed in Cr.M.P.No.5938 of 2023 on the file of the learned Judicial Magistrate, Ambasamudram, dated 04.09.2023 and set aside the same as illegal and arbitrary and further direct the learned Judicial Magistrate, Ambasamudram to return the cash of Rs.4,49,700/- seized from the petitioner in connection with Crime No.218 of 2022 on the file of the respondent police, pending disposal of the trial by allowing this Criminal Revision Petition.

For Petitioner : Mr.B.Azhagesh

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)



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ORDER

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This revision has been filed to set aside the order passed by the learned Judicial Magistrate, Ambasamudram, in Cr.M.P.No.5938 of 2023 dated 04.09.2023, and consequentially, direct the learned Judicial Magistrate, Ambasamudram to return the cash of Rs.4,49,700/- seized from the petitioner in connection with Crime No.218 of 2022 on the file of the respondent police.

2. The petitioner is running a grocery shop in his village. According to the petitioner, on 27.02.2021, at about 09.00 a.m, the respondent police conducted inspection in the shop of the petitioner and found that the petitioner was in possession of tobacco products banned by the Government of Tamil Nadu worth about Rs.27,840/-. They seized the same along with his cash amount of Rs.4,49,700/- and registered a case against the petitioner and other accused in Crime No.218 of 2022 for the offence under Sections 328 of IPC and Section 6(b) and 24(1) of COTPA Act and also arrested him. Thereafter, he was released on bail. After that, he filed a petition in CrI.M.P.No.5938 of 2023 before the learned Judicial Magistrate Court, Ambasamudram, under Section 451 of Cr.P.C., seeking interim custody of Rs.4,49,700/-, which was seized from the shop of the petitioner and the same was dismissed by the learned Judicial Magistrate by the



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order dated 04.09.2023. Aggrieved by the same, the petitioner filed this Revision.

3. The learned counsel for the petitioner submitted that even as per the prosecution case, the value of the seized item is only Rs.29,760/-. The amount seized by the respondent police was kept in the house of the petitioner towards his daughter's education. Due to which, the daughter of the petitioner could not join in Engineering College. He further submitted that there was no reason stated in the order passed by the learned trial Judge for dismissal of the petition. Hence, he prays for setting aside the order passed by the learned trial Judge by allowing this Revision.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner sold the banned tobacco products to the public through his grocery shop. The petitioner was found in possession of banned tobacco products worth about Rs.29,760/-. The amount seized by the respondent police was getting from the sale of banned tobacco products. Hence, it was treated only as crime amount. Hence, he prays for the dismissal of the Revision.



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5. This Court considered the submission of both side counsel and also perused the materials available on record.

6. Admittedly, as per the prosecution case, the value of the seized item is only Rs.29,760/-. The Investigating Officer seized the amount of Rs.4,49,700/-, which was kept in the house of the petitioner for the purpose of his daughter's education. The police officials recorded the confession as it is a crime property. Whether the said seized amount is crime property or not to be decided in the trial. The petitioner made the *bona fide* claim that the same was reserved for the education expenditure of his daughter.

7. In the said circumstances, this Court is inclined to allow this Revision with the following directions:-

i) The learned Judicial Magistrate, Ambasamudram, is directed to release the amount of **Rs.4,00,000/- (Rupees Four Lakhs Only)** by following the procedure stated in 257 of the Criminal Rules of Practice, 2019.

ii) The petitioner should execute an own bond of sum of **Rs.4,00,000/- (Rupees Four Lakhs Only)** to the satisfaction of the learned Judicial Magistrate, Ambasamudram.



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iii) The learned Judicial Magistrate is directed to deposit the remaining amount of Rs.49,700/- in the interest bearing account in any one of the nationalized bank in Crime No.218 of 2022.

8. Accordingly, the impugned order passed by the learned Judicial Magistrate, Ambasamudram, in Cr.M.P.No.5938 of 2023 dated 04.09.2023, is hereby, set aside and the Criminal Revision Case stands allowed.

25.09.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

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Note : Issue order copy on : 17.10.2023

To

1.The Judicial Magistrate,
Ambasamudram.

2.The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

4.The Section Officer,
Records Section (Criminal)
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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