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Crl.R.C.No.22 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.22 of 2024

Hemalatha

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Saravanampatty Police Station,
Coimbatore City.
[Crime No.535 of 2023]

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.49239 of 2023 on the file of the Judicial Magistrate No.II, Coimbatore dated 28.11.2023 and to set aside and modify the condition No.1.

For Petitioner : Mr.M.Rajkumar

For Respondent : Mr.R.Kishorekumar
Government Advocate [Crl. Side]



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ORDER

The petitioner, who is the wife of the defacto complainant and a partner of Goodluck Engineering Equipments filed a petition in CrI.M.P.No.49239 of 2023 seeking return of property before the learned Judicial Magistrate No.II, Coimbatore. The Trial Court by order dated 28.11.2023 ordered return of property with five conditions. Aggrieved against the same, the present revision petition is filed.

2.The case of the prosecution is that on 12.10.2023, the petitioner's husband Yoganandan lodged a complaint stating that he is in the business of selling antique articles and he is in possession of three Monocular [Telescope], namely, Monocular-1[Kelvin & Hughes 1818 year], Monocular-2[Telescope] and Monocular-1[Biodhurst Clarkson, London-1940] for three generations and the value of the three Monocular [Telescope] are around Rs.1 Crore. For the purpose of selling, the three Monocular [Telescope] were displayed and he informed one Ravichandran to find out whether any person is interested in buying these antique pieces.



The said Ravichandran informed that Sadhik, Nazeem and Ramsheed from Kerala were interested in purchasing the antique Monocular [Telescope] and they informed that they would come back and purchase the same. On 12.10.2023 at about 10.50 a.m., the petitioner took the three persons to his house and the Monocular [Telescope] were show to them. Suddenly, all the three persons took possession of all the three Monocular [Telescope] and before the petitioner realizing as to what was happening, the left the house. Thereafter, complaint was lodged.

3.The respondent police registered a case in Crime No.535 of 2023 for the offence under Section 392 IPC against Sadhik, Nazeem and Ramsheed. On receipt of information from the informer about the movement of the accused persons, the respondent police went to Walayar Check Post near Coimbatore-Palakkad Highway, intercepted Nissan Sunny car bearing registration No.KL-10-BL-7541 and found the three accused persons carrying, three stolen Monocular [Telescope]. The accused persons were arrested and the three Monocular [Telescope] were recovered under Recovery Mahazar, thereafter, the recovered Monocular [Telescope] and the



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Car were produced with Form No.91 before the learned Judicial Magistrate No.II, Coimbatore.

4.The contention of the learned counsel for the petitioner is that the petitioner along with her husband were doing the business of selling antique articles in the name of Goodluck Engineering Equipments and the antique Monocular [Telescope] belongs to the petitioner. He would submit that robbery committed by the accused was informed to the respondent police, FIR registered, later accused persons were arrested, property recovered which confirms to the particulars given in the complaint and thereafter, on the same day the said three Monocular [Telescope] were produced before the Trial Court. The petitioner filed a petition seeking return of property and the Trial Court though ordered for return of property by order dated 28.11.2023 due to onerous and impractical conditions imposed, the petitioner is yet to comply with the condition and to receive back the Monocular [Telescope]. Hence, prayed for modifying the condition imposed by the Trial Court.



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5.The learned Government Advocate (Crl. Side) submitted that the petitioner's husband lodged a complaint on 12.10.2023 and based on his complaint, a case in Crime No.535 of 2023 was registered. The petitioner and her husband were running a business in the name of Goodluck Engineering Equipments dealing with antique articles. The petitioner's husband took the three accused persons, who were introduced by one Ravichandran, to his house who showed interest in buying the antique Monocular [Telescope] and in the pretext of verifying the articles, they took to heels and ran away along with the three Monocular [Telescope]. Later, on receipt of information, the accused persons were intercepted and the stolen articles were seized and produced before the Trial Court on the same day. Now the three Monocular [Telescope] is in the custody of the Court. He further submitted that the respondent police has no objection in handing over the recovered articles to the petitioner but the only apprehension is that handing over of seized articles should not affect the progress of trial.

6.Considering the submissions made and on perusal of the materials,



it is seen that the three Monocular [Telescope] which are antique in nature were in possession of the petitioner. Robbery has been committed on these Monocular [Telescope] which were seized later and now the same are in the custody of the Court. It is seen that the three Monocular [Telescope] came into possession of the petitioner and her husband by way of inheritance and for the past three generations their family is in possession and ownership. The conditions imposed by the Trial Court seems to be against the directions and dictum laid down by the Apex Court in the case of ***“Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290”***. In view of the same, this Court is of the view that it would be sufficient that the condition No.2 alone is retained. Added to it, the petitioner to execute a bond for a sum of Rs.25,000/- along with two sureties and further, the petitioner shall file an affidavit giving particulars about the Monocular [Telescope] and submit the photographs by way of CD along with 65B certificate.

7. Accordingly, the Criminal Revision Petition is allowed and the order passed by the learned Judicial Magistrate No.II, Coimbatore in



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CrI.M.P.No.49239 of 2023 dated 28.11.2023 is set aside and the conditions

imposed by the Trial Court are modified as follows:

1. Condition No.1 is modified to the effect that the petitioner shall execute a bond for Rs.25,000/- [Rupees Twenty Five Thousand only] with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Coimbatore.
2. Condition No.2 imposed by the Trial Court is retained.
3. Condition Nos. 3 to 5 imposed by the Trial Court are set aside.

Further, the petitioner is directed to file an undertaking affidavit giving the particulars of the Monocular [Telescope].

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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M.NIRMAL KUMAR, J.

cse

To

- 1.The Judicial Magistrate,
Egmore, Chennai
- 2.The Inspector of Police,
Saravanampatty Police Station,
Coimbatore City.
- 3.The Public Prosecutor,
High Court, Madras.

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