



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.416 of 2024

G.K.Prasanna

...Petitioner

Vs.

State Rep: The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District.
(Crime No.350 of 2023)

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to modify the order dated 18.12.2023 made in Crl.M.P.2400/2023 passed by the learned District Munsif cum Judicial Magistrate, Karimangalam in so far as condition No.1 and 2 is concerned viz., Condition No.1, “He shall not sell or pledge the property in any manner whatsoever” and Condition No.2 “He shall execute a bond for Rs.4,00,00,000/- (Four Crores only) each with two sufficient sureties for the like sum each” are concerned.

For Petitioner : Mr.S.Sathish Rajan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This criminal original petition has been filed challenging two of the conditions imposed by the Court below while allowing the application filed by the petitioner for return of property in CrI.M.P.2400 of 2023 by an order dated 18.12.2023.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

3.The petitioner is the owner of the property. The gold jewelery and cash is said to have been stolen from the house of the petitioner. An FIR came to be registered in Crime No.350 of 2023 for offence under Section 394 of IPC. In the course of investigation, gold jewelery to the tune of 5931.63 grams and cash to the tune of Rs.21 Lakhs was seized. This property was deposited in the Court.

4.The petitioner filed an application under Section 451 of Cr.P.C., seeking for the return of property. The prosecution stated no objection to return the property to the petitioner. The Court below while ordering this application, imposed certain conditions. The petitioner is aggrieved by the following two



conditions imposed by the Court below and they are extracted hereunder:

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1.He shall not sell or pledge the property in any manner whatsoever;

2.He shall execute a bond for Rs.4,00,00,000/- (Four Crores only) each with two sufficient sureties for the like sum each.

5.In the considered view of this Court, there is no requirement for preventing the petitioner from dealing with the property and utilizing the cash and there are other modes through which the identity of the property can be secured. Insofar as the gold jewelery is concerned, this Court relies upon the earlier orders passed by this Court in CrI.O.P.No.5254 of 2021 dated 23.03.2021. In this order, this Court took into consideration all the earlier judgments and came to a conclusion that arrangements can be made to take photographs of the jewelery and also for preparing the panchanama. A notice should be issued to the accused person and he shall be called upon to take a stand in the case. If the accused person takes a stand that he is not involved in the alleged offence and no article was recovered from the accused person, the same can be recorded and he can be asked to put the signature on the photographs of the case property and this can be marked as a document during trial. If this procedure is followed, the petitioner can also be permitted to deal with the jewelery.



6. Insofar as the return of currency notes are concerned, the judgment of the Apex Court in ***Sunderbhai Ambalal Desai vs. C.M. Mudaliar*** reported in ***2003 SCC (Crl) 1943*** and ***General Insurance Council and Others vs. State of Andhra Pradesh and others*** reported in ***2010 6 SCC 768*** can be taken into consideration. The Apex Court has held that the same parameters can be applied even insofar as the currency notes are concerned.

7. In the light of the above discussion, the 1st and 2nd conditions that were imposed by the Court below are set aside. The other conditions imposed by the Court below will sufficiently take care of the identity of the gold jewellery and currency notes. Apart from following those procedures mentioned at clause 4 of the order, there shall be a further direction to the Court below to issue notice to the accused person and call upon him to take a stand in the case. If the accused person takes a stand that he is not involved in the alleged offence and no article was recovered from the accused person, the same can be recorded and he can be asked to put the signature on the photographs of the case property and this can be marked as a document during trial. This procedure can be followed both for the jewellery as well as the currency notes. It is made clear that the Court below shall complete the above process, within a period of two weeks from the date of receipt of copy of this order.



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9. In the result, this criminal original petition stands allowed in the above terms.

24.01.2024

Index: Yes/No
Speaking order/Non-speaking Order
Neutral Citation: Yes/No
ssr

To

1. The District Munsif cum Judicial Magistrate, Karimangalam.
2. The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District.
3. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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