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Crl.R.C.No.209 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.209 of 2024

Karthik @ Loyola Karthik

... Petitioner/petitioner/
owner of property

Vs.

The State Rep. By,
Inspector of Police,
Nungambakkam Police Station,
Chennai.

[Crime No.49/2023]

... Respondent/Respondent
Complainant

Prayer: Criminal Revision Case has been filed under Sections 397 r/w 401 of Cr.P.C, praying to set aside the dismissal order passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.15353/2023 dated 10.05.2023.

For Petitioner : Mr.P.Surendran

For Respondent : Mr.C.E.Pratap,
Government Advocate (Crl.Side)



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ORDER

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This revision has been filed seeking to set aside the order passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.15353 of 2023 dated 10.05.2023.

2.The petitioner/accused in Crime No.49 of 2023 for the offences under Section 363, 294(b), 323, 341, 506(ii) IPC filed a petition under 451 Crl.P.C seeking return of his mobile phone Redmi Note-8. The trial Court vide order dated 10.05.2023 dismissed the same, against which the present petition.

3.The contention of the petitioner is that the petitioner is employed in a press and he along with two of his friends had gone to the defacto complainant hotel for having food and they had also ordered fried rice. Further that, in the served food fly was found, which was questioned by the petitioner and his friends and a dispute arose and the other customers in the



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hotel came to know about the same. The hotel management got offended finding that their business would get affected. Therefore, they lodged a false complaint against the petitioner as though he threatened the defacto complainant and demanded money.

4.The learned counsel for the petitioner submitted that earlier in 2015 a case of fight was filed against the petitioner. Thereafter, no other case against the petitioner. He would further state that he is employed and is residing with his family. The petitioner uses the mobile phone for on-line transactions including back transactions. Due to the detention of the mobile phone by the respondent police, the petitioner is unable to operate his bank account and do other on-line transactions.

5.The learned Government Advocate(Crl. Side) on the other hand would submit that the petitioner along with two others had gone to the



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defacto complainant hotel and ordered food. Later, they made an allegation that fly was found in their food. The hotel management explained to them that there is no possibility of fly getting into their food, as it is a well protected area. However, the petitioner along with his friends were making unnecessary sounds and attracted the attention of other customers. The defacto complainant informed the petitioner that they would provide fresh food for them. This was not acceptable to them and their only intention was to create ruckus. Thereafter, the petitioner called the defacto complainant and demanded money to settle the issue and that otherwise he would take it to the social media and damage the image of the defacto complainant hotel and create loss to them. Since the threat was continuous and on one occasion the defacto complainant was taken to an isolated place and threatened with knife, hence a complaint was lodged. The case was registered and the petitioner was arrested on 15.03.2023 and the mobile phone of the petitioner was seized to verify the threat made by the petitioner using the mobile phone. The



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mobile phone has been deposited before the XIV Metropolitan Magistrate Court in B.No.782/2023 on 27.04.2023. He further submitted that the petitioner was earlier involved in a case in Crime No.980 of 2015 for offences under Section 341, 294(b), 324, 506(ii) r/w. 109 IPC. He submitted that if the mobile phone is handed over to the petitioner, he would commit similar offences in future.

6.It is seen that a dispute arose when the petitioner along with his friends went to the defacto complainant hotel and thereafter, the petitioner is said to have threatened and demanded money from the defacto complainant. The mobile phone has not been used as a weapon in any manner. Further, the call details have already been verified and there is nothing more to investigate using the mobile phone. It is seen that nowadays bank transaction and on-line transaction using mobile phone are in usage. Therefore, the petitioner's contention of doing on-line bank transaction cannot be ignored. In view of



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the same, this Court is inclined to return the mobile phone (Redmi Note-8

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Cellphone) to the petitioner on the following conditions;

(i)The appellant shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only), with one surety for a like sum to the satisfaction of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai;

(ii)the surety shall affix their photograph and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iii)The petitioner shall produce an affidavit before the learned Judge that he shall not alter or erase the details in the mobile phone and that he shall produce the mobile phone before the Trial Court, as and when directed by the Trial Court.



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7.In view of the above, the impugned order in Crl.M.P.No.15353 of 2023, dated 10.05.2023 passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai is set aside and the Criminal Appeal is, accordingly, allowed.

22.02.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

Tsg

To

1.The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

Tsg

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