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Crl.R.C.No.206 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.206 of 2024

S.Yasmeen

... Petitioner

Vs.

The State,
Represented by the Inspector of Police,
Kondalampatty Police Station,
Coimbatore District.
(Crime No.516 of 2023)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order in Crl.M.P.No.1064 of 2023, dated 26.07.2023 passed by the learned Judicial Magistrate No.5, Salem.

For Petitioner : Mr.A.Leon Victor

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

The criminal revision is filed, challenging the order, dated 26.07.2023 passed in Crl.M.P.No.1064 of 2023 by the learned Judicial Magistrate No.5, Salem.

2. The revision petitioner filed a petition in Crl.M.P.No.1064 of 2023 under Section 451 r/w 457 of Cr.P.C., seeking return of property viz., Apple I Phone-13 (Cell Phone)-1. However, the trial Court, without proper adjudication, had mechanically dismissed the said petition, vide impugned order dated 26.07.2023. Aggrieved by the same, the petitioner has come up with this revision.

3. Learned counsel for the petitioner submitted that, keeping the above seized property idle in the Police station would deteriorate and diminish its value and the same will no longer serve any purpose and further, no prejudice will be caused to the prosecution if the above said property is returned to the petitioner. He further submitted that the petitioner



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is in no way connected to the crime and that one Naveen, who is the cousin brother of the petitioner has misused the property and the petitioner is ready to abide any conditions imposed by this Court. Accordingly, he prayed for appropriate orders.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submitted that the investigation is not completed and the datas comprised in the above said properties are necessary for the investigation and if the same is returned, there are more chances of petitioner tampering the evidences and thereby, the trial court, after careful consideration of the above said facts, dismissed the petition filed by the petitioner seeking return of property and the same does not warrant interference of this Court. Accordingly, he prayed for dismissal of this petition.

5. Heard learned counsel on either side and perused the material documents placed on record.



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6. Even though the trial Court has negated the right of the petitioner, however, keeping in mind that the learned counsel for the petitioner has given an undertaking before this Court that the petitioner will not sell or pledge or change the structure of property, this Court is of the view that keeping the seized property in trial Court would not serve any purpose to anyone and the trial Court ought to have returned the property to the petitioner by taking photographs of the phone, without doing so, dismissing the claim made by the petitioner is wholly unsustainable.

7. Therefore, this Court directs the learned Judicial Magistrate No.5, Salem to release the property viz., Apple I Phone-13 (Cell Phone)-1 seized from the petitioner by the respondent police, in the following terms:

(i) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crl.M.P.No.1064 of 2023 on the file of the learned Judicial Magistrate No.V.



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(i) The petitioner shall not alienate the case property till the adjudication/trial is completed.

(ii) The petitioner shall produce the case property before the Court below as and when required.

8. Accordingly, the Criminal Revision Case is allowed with the above directions.

30.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

Note: Issue order copy by 01.08.2024.

To

1. The learned Judicial Magistrate No.5,
Salem.
2. The Inspector of Police,
Kondalampatty Police Station,
Coimbatore District.
3. The Public Prosecutor,
Madras High Court.



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M.DHANDAPANI, J.

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