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Crl.RC.No.988 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.988 of 2024

Lydia Rayan @ Renuka Devi

...Petitioner

Vs.

State by:- The Inspector of Police,
Thazhambur PS,
CCB Tambaram,
Crime No.119 of 2022.
...Respondent

Criminal Revision case filed under Section 397(1) r/w 401 of Cr.P.C. to call for the entire records in connection with the Crl.MP.No.3404 of 2023 in Crime No.119 of 2022 on the file of the Judicial Magistrate No.2, (FTC) Chengalpattu and set aside the order passed by the Judicial Magistrate No.2, Chengalpattu dated 17.11.2023 in Crl.MP.No.3404 of 2023 in Crime No.119 of 2022.

For Petitioner : Mr.V.Parthiban
for Mr.M.Velan

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



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ORDER

This Criminal Revision Case has been filed seeking quashment of the order dated 17.11.2023 passed in Crl.MP.No.3404 of 2023 in Crime No.119 of 2022 on the file of the Judicial Magistrate No.2, (FTC) Chengalpattu.

2. The case of the petitioner is that, the petitioner was implicated for the alleged offences punishable u/s. 409, 420, 465, 467, 47 r/w.120(b) of IPC in Cr.No.119 of 2022 and the respondent had seized the properties belonging to the petitioner such as, Dell Laptop, Apple laptop, Samsung phone, I Phone (2 nos. One Red and One Gold colour) and a pair of Diamond hearing. Thereby, the petitioner filed a petition under Section 451 r/w. 457 of Cr.P.C. in Crl.MP.No.3404 of 2023 seeking return of the above said properties. However, the trial Court, without proper adjudication, had mechanically dismissed the said petition, vide impugned order dated 17.11.2023. Aggrieved by the same, the petitioner has come up with this revision.



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3. Learned counsel for the petitioner submitted that, keeping the above seized properties 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 properties are returned to the petitioner. 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 properties and the same does not warrant interference of this Court. Further, as per Seizure Mahazer, only four items namely, Apple Laptop (MacBook Air China Model A 1932),



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Apple Mobile-Red Colour, Samsung Mobile-Blue colour, Indian Bank A/c 9302525336 cheque photocopy-1 and Bank of Maharashtra A/c 0000006800057950 cheque photocopy-1 were seized from the petitioner and no diamond ear ring as alleged by the petitioner was seized by the respondent police. Accordingly, he prayed for dismissal of this petition.

5. In response, the learned counsel for the petitioner submitted that, the petitioner has sufficient proof to show that the Item No.5 - a pair of diamond ear rings were seized by the respondent and thereby sought for liberty of this court to file a fresh petition before the court below seeking return of the diamond ear rings.

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

7. 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 that the petitioner will not



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sell or pledge or change the structure of properties, this Court is of the view that keeping the seized properties in trial Court would not serve any purpose to anyone and the trial Court ought to have returned the properties to the petitioner by taking photographs of the articles, without doing so, dismissing the claim made by the petitioner is wholly unsustainable.

8. Therefore, this Court directs the Judicial Magistrate No.2, (FTC) Chengalpattu to release the properties seized from the petitioner by the respondent police, except the Diamond earring which is in dispute, in the following terms:

- (i) The petitioner shall not alienate the case properties till the adjudication/trial is completed.
- (ii) The petitioner shall produce the case properties before the Court below as and when required.

9. Further, the petitioner is at liberty to file a fresh petition before the court below seeking return of the diamond ear rings, if he has necessary documents to prove that a pair of diamond ear rings was seized



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from her by the respondent police.

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10. Accordingly, this Criminal Revision petition stands allowed in part with the above terms.

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skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

1. The Inspector of Police,
Thazhambur PS,
CCB Tambaram.
2. The Judicial Magistrate No.2, (FTC)
Chengalpattu.
3. The Public Prosecutor,
Madras High Court.



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M.DHANDAPANI, J.

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