



Crl.R.C.No.1101 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

Crl.R.C.No.1101 of 2024

J.Raja Ramesh

... Petitioner

Vs.

The State

Rep. by the Inspector of Police,

F-3, Nungambakkam Police Station,

Chennai – 600 034.

(Crime No.90 of 2024)

... Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, praying to allow the above Criminal Revision Petition and to call for the records in connection with the order dated 15.04.2024 in Crl.M.P.No.20703 of 2024 on the file of the learned XIV Metropolitan Magisterial Court (FAC) Egmore at Chennai and set aside the same.

For Petitioner : Mr.Sreenivasan
Senior Counsel
for M/s.M.R.Sivakumar

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



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ORDER

The present revision is filed against the order dated 15.04.2024 of the learned XIV Metropolitan Magistrate Court (FAC) Egmore at Chennai in Crl.M.P.No.20703 of 2024, in and by which the prayer of the petitioner seeking interim custody of the case property viz., Rs.9,00,000/- is rejected by the learned Magistrate.

2. The case of the petitioner is that, he is doing the business of garment export and one D.Lourdu Nathan was employed as a driver in his house. Whiles, the said driver had stolen a sum of Rs.9,00,000/- from the bedroom of the petitioner's house, which was recorded in CCTV camera, based on which, the petitioner made a complaint before the respondent police on 23.03.2024 and the respondent police has registered an FIR in Crime No.90 of 2024. After investigation, the respondent police seized the said sum of Rs.9,00,000/- from the said driver. Thereafter, the petitioner filed a petition u/s 451 of Cr.P.C in Crl.M.P.No.20703 of 2024 seeking the custody of the sum of Rs.9,00,000/-. Even though the prosecution has no objection to return the said money, the trial court had dismissed the petition vide impugned order dated 15.04.2024 holding that



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the petitioner has not proved that the money belongs to him and no document has been filed before the trial court. Challenging the same, the present revision has been filed by the petitioner.

3. Learned Senior Counsel appearing for the petitioner submitted that, no one came before the trial court claiming the seized money. In the absence of any rival claim with regard to the said money, refusing to grant interim custody in favour of the petition is wholly unsustainable. Further, the learned Senior Counsel submitted that the trial court have power to impose any condition with regard to safety of the money, however, intoto dismissing the petition filed by the petitioner is not sustainable. Accordingly, the learned Senior Counsel prays for appropriate orders.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that, he has no objection for return of money to the petitioner.

5. Heard the learned Senior Counsel appearing for the petitioner



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and the learned Government Advocate (Crl.Side) appearing for the respondent police and also perused the materials available on record.

6. Admittedly, based on the complaint given by the petitioner as against his driver, the law enforcing agency registered a case in Crime No.90 of 2024 and seized the amount of Rs.9,00,000/- from the accused. After seizure, the petitioner filed a petition u/s 451 of Cr.P.C. in Crl.M.P.No.20703 of 2024 seeking return of money, however the trial court has dismissed the same.

7. In this regard, the decision of the Hon'ble Supreme Court of India in the case of ***Sunderbhai Ambalal Desai and others Vs. State of Gujarat*** reported in ***(2002) 10 SCC 283*** is of relevance and the material portion of the said judgment is quoted hereunder :-

“Valuable Articles and Currency Notes

With regard to valuable articles, such as golden or silver ornaments or articles studded with precious stones, need not be kept in police custody for years till trial is over. The Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C. at the earliest. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be



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handed over to the complainant after:

- (1) preparing detailed proper panchnama of such articles;*
- (2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial ; and*
- (3) after taking proper security.”*

8. Applying the decision of the Hon'ble Supreme Court and considering the above facts and circumstances of the case, I am of the considered view that the petitioner is entitled for the relief of interim custody of the cash on the following terms :-

(i) the order passed by the learned XIV Metropolitan Magistrate Court (FAC), Egmore at Chennai, in Crl.M.P.No.2073 of 2024, dated 15.04.2024 is set aside;

(ii) the petitioner is directed to execute a bond for a sum of Rs.9,00,000/- (Rupees Nine Lakhs only) before the learned XIV Metropolitan Magistrate Court (FAC), Egmore at Chennai with two sureties for a like sum each;

(iii) The seized items should be photographed at the cost of the petitioner herein and a list is to be prepared and the same is to be signed by the petitioner.



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M.DHANDAPANI, J.

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9. Accordingly, the Criminal Revision Case is allowed in the above terms.

28.06.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To

- 1.The XIV Metropolitan Magisterial Court (FAC),
Egmore at Chennai.
- 2.The Inspector of Police,
F-3, Nungambakkam Police Station,
Chennai – 600 034.
- 3.The Public Prosecutor,
Madras High Court,
Chennai.

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