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Crl.RC.No.1299 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM:

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

Crl.RC.No.1299 of 2023

V.Paneerselvam

...Petitioner

Vs.

1. The State rep by,
The Inspector of Police,
Shevapet Police Station, Salem-636 002.
(Crime No.317 of 2022)

2. V.Sathyanarayanan

3. V.R.Venugopal

4. Meera

...Respondents

(R2 to R4 impleaded, vide order dated 04.08.2023 made in
Crl.MP.No.11771 of 2023 in Crl.RC.No.1299 of 2023)

Criminal Revision case filed under Section 397 r/w 401 of
Cr.P.C. to set aside the order dated 03.05.2023 made in CMP.No.1530 of
2023 on the file of the Judicial Magistrate Court No.III Salem.

For Petitioner : Mr.S.Suresh Kumar

For Respondent : Mr.A.Gopinath, GA(Crl. Side), for R1
: Mr.R.Nalliyappan, for R2 to R4



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ORDER

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This Criminal Revision Case has been filed seeking quashment of the order dated 03.05.2023 made in CMP.No.1530 of 2023 on the file of the Judicial Magistrate Court No.III, Salem.

2. The case of the petitioner is that, the petitioner/defacto complainant lodged a complaint before the law enforcing agency stating that, the 1st accused is the brother in law of the petitioner and the 2nd accused is the father in law of the petitioner and the petitioner married the 2nd accused's daughter namely Kanchana during the year 2003 and thereafter, the petitioner and the 2nd accused jointly started a silver jewels manufacturing business and the petitioner is administrating and managing the entire business. While so, the accused persons along with one another person broke open the lock and stole 615 Kgs of silver articles from the shop. Thereby, a case was registered in Cr.No.317 of 2022 for the offences u/s. 403, 420, 447 & 109 of IPC. Immediately, the accused persons moved Anticipatory bail petition before this Court in Crl.O.P.No.2978 of 2023 and pursuant to the order of this Court dated



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24.02.2023, the accused persons have jointly deposited a sum of Rs.10,00,000/- to the credit of Cr.No.317 of 2022 before the learned Chief Judicial Magistrate, Salem. Thereafter, the petitioner filed a petition u/s. 451 & 457 of Cr.P.C. in CMP.No.1530 of 2023 seeking interim custody of the amount deposited by the accused persons to the credit of the above said crime number to the tune of Rs.10,00,000/-., which came to be rejected by the Trial court, vide order dated 03.05.2023. Challenging the same, the present revision has been filed.

3. Learned counsel for the petitioner submitted that, keeping the sum of Rs.10,00,000/- idle in Cr.No.317 of 2022 before the learned Chief Judicial Magistrate, Salem will no longer serve any useful purpose to the parties and further, no prejudice will be caused to the prosecution if the said amount of Rs.10,00,000/- is disbursed in favour of the petitioner. Accordingly, he prayed for appropriate orders.

4. Learned Government Advocate(Crl. Side) appearing for the 1st respondent submitted that though the petitioner claim that the accused



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persons have cheated the petitioner and have stolen the silver articles, on the other hand, it is the claim of the accused persons that the petitioner is not a partner and he is a mere employee and it is the petitioner who cheated the accused persons and had stolen silver articles and a counter complaint was also filed by the accused persons to that effect. Since the complicity of the petitioner in the offence would be clear only after completion of investigation, it would not be in the interest of the prosecution to have the amount given interim custody to the petitioner, as the same is a material object, which is connected with the commission of the offence and thereby, the trial court, after careful consideration of the above said facts, had rightly dismissed the interim custody petition filed by the petitioner. Accordingly, he prayed for dismissal of this petition.

5. Learned counsel appearing on behalf of the respondents 2 to 4 submitted that, allowing the present revision would presuppose the case and disbursing the amount in favour of the petitioner would greatly affect the defence of the respondents / accused and the same would amount to



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violation of Article 20(3) of the Constitution of India. Accordingly, he prayed for dismissal of this Revision.

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 return the amount of Rs.10,00,000/- in the event of the accused persons succeeding in the criminal case, this Court is of the view that keeping the money deposited in the trial Court would not serve any purpose to anyone.

8. Therefore, this Court directs the Judicial Magistrate Court No.III, Salem to disburse the sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) deposited to the credit of Cr.No.317 of 2022 before the learned Chief Judicial Magistrate, Salem in favour of the petitioner within a



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period of two weeks from the date of receipt of a copy of this order.

However, it is made clear that, the petitioner shall not change the character of the case property and he shall produce the case property ie., amount of Rs.10,00,000/- before the Court below as and when required.

9. Accordingly, this Criminal Revision petition stands allowed with the above terms.

12.07.2024

skt

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

To

1. The Judicial Magistrate Court No.III,
Salem.
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police,
Shevapet Police Station, Salem-636 002.

M.DHANDAPANI, J.

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