



WEB COPY



Crl.R.C.No.1518 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1518 of 2024

K.Jayaprakash

S/o.M.Kuppusamy

... Petitioner/Accused

Versus

The State,

Rep. by The Inspector of Police,

Central Crime Branch,

EDF-1, Team II

Veperiy, Chennai-7.

...Respondent/complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure to call for the records in Crl.M.P.No.43558 of 2024 on the file of the Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai-08 and to set aside the same and order to return the phone (Samsung Z Fold-4 (Grey Colour)) (IMEI 1 No.35876298113931) (IMEI 2 No.359680292113939) to the petitioner.

For Petitioner : Mr.C.Iyyapparaj

for Mr.A.P.Balaji

For Respondent : Mr.A.Damodaran

Additional Public Prosecutor



Crl.R.C.No.1518 of 2024

ORDER

WEB COPY

This Criminal Revision Petition is filed seeking to set aside the order dated 13.08.2024 passed in Crl.M.P.No.43558 of 2024 on the file of the Court of Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai-08 and to return the phone (Samsung Z Fold-4 (Grey Colour)) (IMEI 1 No.35876298113931) (IMEI 2 No.3596802921 13939) to the petitioner.

2. The petitioner / accused in Crime No.45 of 2024 had filed a petition in Crl.M.P.No.43558 of 2024 seeking for return of mobile Phone. The trial Court, by order dated 13.08.2024 dismissed the said petition.

3. The contention of the petitioner is that during the investigation, the petitioner was arrested by the respondent police on 26.04.2024 and his Samsung Z Fold-4 (Grey Colour) was seized by the police on the same day and his phone is with the respondent police. In the meanwhile, the petitioner was taken to the custody of the respondent police. Thereafter, the petitioner



Crl.R.C.No.1518 of 2024

WEB COPY

was granted bail in the month of July 2024. After seven months of seizure of the mobile phone, the petitioner had filed the present petition seeking for return of mobile phone and at this juncture, the respondent police is not sure for what purpose the mobile phone was seized. It is also the case of the petitioner that the mobile phone was with the respondent police from April to July and only on 26.07.2024, it was produced before the trial Court and B.No.2381 of 2024 was assigned. Though in the impugned order, it is stated that mobile phone was sent to the Forensic Lab, there are no details as to when it was sent and for what purpose it was sent. He further submitted that in this case, a complaint dated 02.11.2023 is said to have been given by the Correspondent, Kongu Vellalar Matriculation Higher Secondary School, Perundurai, the same was assigned with C.No.1688/CCB/CoP/Visitors/23 and forwarded to DC, CCB-II. On this complaint, an FIR in Crime No.24 of 2024 was registered on 08.02.2024 for offences under Sections 406, 420 and 120B of IPC. He further submitted that on similar grounds, another



Crl.R.C.No.1518 of 2024

WEB COPY

complaint was lodged by the President, Kongu Vellalar Kalvi Niruvanam, Perundurai on 28.02.2024, the same was assigned with C.No.299/CCB/CoP/Visitors/2024 and forwarded to DC, CCB-II. On this complaint, another FIR in Crime No.45 of 2024 dated 01.03.2024 for offences under Sections 406, 420 and 120B of IPC was registered. In both the FIRs, the place of occurrence and complaint details are one and the same except for small variation in the list of accused otherwise, both the complaints are identical in all other aspects. He further submitted that after registration of second FIR dated 01.03.2024, first FIR in Crime No.24 of 2024 was closed on 04.03.2024 as further action dropped but that sustained the investigation in Crime No.45 of 2024 in which the petitioner was arrested which clearly shows the vindictive nature of investigation.

4. The learned Additional Public Prosecutor vehemently opposed the contention of the petitioner and submitted that the complaint of Correspondent, Kongu Vellalar Kalvi Niruvanam, Perundurai, is that during



Crl.R.C.No.1518 of 2024

WEB COPY

the year 2015, the Trust purchased 11.36 acres of land at Karungattur Village for construction of new building for their school and the same had been duly registered at SRO, Perundurai. Later in the year 2016, they obtained patta in favour of the Trust. But the *de facto* complainant came to know that the above said patta was transferred to SIPCOT in the year 2018. Hence the *de facto* complainant approached one Ravichandran and through him all the other accused namely, the petitioner and others were introduced to the *de facto* complainant, who induced the *de facto* complainant to pay Rs.6.85 crores for changing the patta from the name of SIPCOT to the name of the Trust. The *de facto* complainant collected huge amount from several persons and handed over to the petitioner and others and after receiving the amount, the petitioner/accused neither changed the patta nor repaid the amount and thus cheated. Hence, the complaint had been lodged.

5. Finding that there is involvement of private and public servants, initial enquiry was conducted, thereafter, investigation was taken up and now



Crl.R.C.No.1518 of 2024

WEB COPY

the investigation is in progress, the petitioner as well as other accused were arrested. It is seen that lot of communications, transactions and data are available in the petitioner's mobile phone. The data available in the mobile phone has to be converted and thereafter forensic examination of digital evidence has to be made. Hence, the seizure of the phone along with sim card was important and encrypted files are available in the phone. For that reason, the phone was seized, now sent for forensic examination in Receipt No.317978 dated 18.10.2024 after obtaining permission from trial Court. The learned Additional Public Prosecutor produced the requisition of the trial Court as well as acknowledgment receipt given by the Forensic Department on 18.10.2024. He further submitted that in this case, after collection of data from the mobile phone, the mobile phone will be handed over to the petitioner if thereafter not required.

6. The learned counsel for the petitioner submits that a time frame may be fixed for return of phone to the petitioner as the Forensic



Crl.R.C.No.1518 of 2024

WEB COPY

examination procedure would take considerable time.

7. In view of the above, the Director, State Forensic Science Department, Mylapore, Chennai-4, is directed to entrust the examination of petitioner's phone on priority and complete the forensic examination preferably within a period of three months from 18.10.2024 and send a report to the trial Court and Investigation Officer. Thereafter, the trial Court to consider petitioner's petition for return of his mobile phone, if such a petition is moved.

8. Accordingly, this Criminal Revision Case is disposed of with the above directions and observations.

22.10.2024

Internet : Yes/No

Neutral Citation : Yes/No

Speaking order/Non-speaking order

mk



Crl.R.C.No.1518 of 2024

To
WEB COPY

1. The Director,
State Forensic Science Department,
Mylapore, Chennai-4,
2. The State,
Rep. by The Inspector of Police,
Central Crime Branch,
EDF-1, Team II
Vepery, Chennai-7.
3. The Metropolitan Magistrate for Exclusive Trial of
CCB (Relating to Cheating Cases in Chennai) &
CBCID Metro Cases, Egmore, Chennai.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.1518 of 2024

M.NIRMAL KUMAR, J.

mk

Crl.R.C.No.1518 of 2024

22.10.2024