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CrI.R.C.No.1874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.1874 of 2024

E.Rajesh

... Petitioner/De-facto complainant

Vs.

State Rep by its,
Inspector of Police,
Central Crime Branch,
EDF-II, Team-37
Vepery, Chennai.
(Crime No.159 of 2024)

...Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to set aside the order passed by the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai – 08 in CrI.M.P.No.14241 of 2024 dated 06.07.2024.

For Petitioner : Mr.S.Suresh

For Respondent : Mr.S.Udaya Kumar
Government Advocate (CrI. Side)



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ORDER

The revision challenges the dismissal of the petitioner's application for return of certain articles, namely, (i) Gold articles – 936.730 grams, (ii) Cash – Rs.11,50,000/- from A1, (iii) Gold articles – 636.910 grams and (ii) Cash – Rs.16,00,000/- from A2 in this case.

2. The petitioner is the de-facto complainant, who had lodged a complaint against the accused stating that the accused was employed under the de-facto complainant and during the course of employment he had misappropriated money to the tune of Rs,6,53,00,000/- by obtaining signatures on the cheque under the pretext of making payments for expenses such as Lorry freight, oil expenses and other business related cause.

3. During the course of investigation, the above said articles were seized by the respondent from the accused. The petitioner sought for return of those articles stating that the said articles were purchased by the accused from the misappropriated funds and hence, the petitioner is entitled for interim custody of the same. The learned Magistrate dismissed the said application on the ground that the question, as to whether the property seized by the



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respondent was purchased by utilising the alleged misappropriated money or not, has to be decided only during trial and at this stage the petitioner could not be entitled for return of the said articles/properties.

4.The learned counsel for petitioner would submit that there is no rival claim; that the petitioner had established that the accused had committed misappropriation; and that therefore, the learned Magistrate ought not to have dismissed the petitioner's application for return of the articles.

5.Learned Government Advocate submitted that the investigation so far reveals that the accused had misappropriated a total amount of Rs.2,60,55,266/- and that further investigation is still pending.

6.Considering the rival submission, this Court is of the view that it would be premature to decide whether the seized properties were purchased out of the misappropriated funds. Hence, this Court finds that the order impugned does not suffer from any infirmity and the same is confirmed.

7.It is for the prosecution to first establish that the offence of criminal misappropriation, cheating has been made out and that the articles seized are



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either stolen property (within the meaning of Section 410 of I.P.C.) or proceeds of crime. Hence, this Court is not inclined to entertain this petition.

Accordingly, the Criminal Revision Case is dismissed.

10.12.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1.The Metropolitan Magistrate for Exclusive Trial of CCB Cases
(Relating to Cheating Cases in Chennai) and CBCID Metro Cases,
Egmore, Chennai

2.The Inspector of Police,
Central Crime Branch,
EDF-II, Team-37
Vepery, Chennai.

3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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