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Crl.RC No.1850 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1850 of 2024

Kaja Hussain

... Petitioner

Vs.

State represented by
The Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore.

(Cr.No.546 of 2023)

... Respondent

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to call for the records in Crl.MP.No.23816 of 2024 in Crime No.546 of 2023 on the file of the learned Judicial Magistrate No.II, Coimbatore and set aside the order dated 14.08.2024.

For Petitioner : Mr.K.Balasubramaniam

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed challenging the order of the dismissal of the petition filed under Sections 451 of Cr.P.C.



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2. This petitioner is said to be involved in the offence under Sections 406, 420, 120 (b), 294(b) and 506 (ii) of IPC. It is alleged that the petitioner along with a few others had placed orders for purchase of threads from the defacto complainant and after receipt of goods had not paid the defacto complainant and hence committed the offences alleged.

3. (i) The learned counsel for the petitioner would submit that the articles seized from the petitioner have nothing to do with the alleged offence said to have been committed by the petitioner and that the articles seized from the petitioner are as follows:

1. S-6 Apple I-phone
2. Tata Altroz Car
3. Cheque Book – 8 Nos.
4. Pass Book – 2 Nos.
5. Pan Card
6. Karur Vysya Bank Cheque Leaves -2 Nos
7. Gold Ring – 2 Nos
8. Gold Coin – 1 and
9. Cash Rs.17,200/-

(ii). The learned counsel for the petitioner further submitted that the car seized from the petitioner is kept in open space exposing to vagaries of weather; that further detention of vehicle would make the vehicle unusable, and it would be reduced to a scrap and that the petitioner is ready to comply with any condition that this Court may



impose while ordering return of articles and prayed for return of the properties.

4. The learned Government Advocate (Crl. Side) would submit that the above articles have been seized during the course of investigation.

5. This Court finds merit in the submission made by the petitioner. Admittedly, the property seized has nothing to do with the offences said to have been committed by the petitioner. The articles mentioned above seized from the petitioner would not advance the prosecution case in any manner. It is not the case of the prosecution that the above articles are required to establish the offence. Further, it is seen that from the date of seizure, the vehicle is kept in open space exposing to vagaries of weather, as a result of which, the value of the vehicle would diminish. The Apex Court in the case of *Sainaba vs. The State of Kerala and another in Criminal Appeal No.2005/2022 [SLP (CRL.) No.72080/2022]* by following the judgment of the Apex Court in the case of “*Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 283*” had held that the valuables and other articles can be returned to the person entitled to proper custody on condition instead of allowing it to be



kept in the police station.

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6. Hence, this Court is inclined to allow return of properties. Accordingly, the learned Judicial Magistrate No.II, Coimbatore, is directed to return the above articles to the petitioner on the following conditions:

(i)The petitioner shall execute a personal bond for sum of Rs.1,00,000/- [Rupees One Lakh only] with two solvency surety, for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Coimbatore;

(ii) The petitioner shall not alter, alienate or encumber the Tata Altroz Car, in any manner till adjudication is over;

(iii)The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate No.II, Coimbatore, shall peruse the RC book and other records, retain xerox copy of the same and return the original RC book to the petitioner;_

(iv)The petitioner shall not alter or alienate the Gold Ring (2 Nos.) and Gold Coin (1 No.), until further orders;



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(v)The petitioner shall also give an undertaking that he will produce the above articles as and when required by the respondent and by the Court below.

(vi)The petitioner is directed to file an affidavit before the learned Judicial Magistrate No.II, Coimbatore, undertaking that the receipt of the cash of Rs.17,200/- would be subject to the outcome of the trial.

7. In the result, this Criminal Revision Case stands allowed setting side the impugned order, dated 14.08.2024 in Crl.M.P.No.23816 of 2024 in Cr.No.546 of 2023 passed by the learned Judicial Magistrate No.II, Coimbatore.

04.11.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
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To

- 1.The Judicial Magistrate No.II,
Coimbatore.
- 2.The Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore.
- 3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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