



Crl.R.C.No.1919 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1919 of 2024

Neethimozhi

... Petitioner

Vs.

State rep. By
The Inspector of Police,
Thirumanur Police Station.
(In Crime No.165/2022)

... Respondent

PRAYER: Criminal Revision Case filed under Section 438 r/w. 442 of BNSS to call for the records connected with the order dated 04.08.2023 in C.M.P.No.5655 of 2023 on the file of the learned Judicial Magistrate No.II, Ariyalur in Crime No.165 of 2022 on the file of the respondent and set aside the same as illegal.

For Petitioner : Mr.S.Mohamed Ansar

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



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ORDER

The revision challenges the dismissal of the petitioner's application filed for return of Rs.4,03,000/- seized from the petitioner by the Police in Crime No.165 of 2022.

2.It is the case of the prosecution that during a road check, the petitioner was intercepted and he was found carrying banned tobacco products; that on his arrest he made a confession and pursuant to the confession, a sum of Rs.4,03,000/- was seized from the petitioner; the petitioner filed Crl.M.P.No.5655 of 2023 before the learned Magistrate and the learned Magistrate dismissed the said petition on the ground that the petitioner had not made out any case for return of cash.

3.The learned counsel for the petitioner would submit that the petitioner is entitled to interim custody of cash; that the cash seized from the co-accused was returned by this Court in Crl.R.C.No.1560 of 2023 by order



dated 14.10.2024 and hence, the seized amount may be returned on the very same conditions imposed by this Court in the revision filed by the co-accused.

4.The learned Government Advocate (Crl. Side), on instructions, would submit that this Court had ordered return of cash to the co-accused.

5.This Court while allowing the revision for return of cash on the petition filed by the co-accused/A4 passed the following order:

“5.Considering the submissions and on perusal of the materials, it is seen that the petitioner is A4 in Crime No.165 of 2022, from the petitioner, no contraband seized from his shop or from his residence. The amount of Rs.4,00,000/- seized from the petitioner is on the premise that the petitioner received this amount from A1-Neethimozhi on selling banned tobacco products. From the confession of A1, it is seen that A1 not whispered anything about handing over Rs.4,00,000/- to the petitioner for sale of banned tobacco products, other than this claim by the respondent there is no material to link the cash of Rs.4,00,000/- seized from the petitioner to the



case. In view of the same, this Court is inclined to return the amount of Rs.4,00,000/- seized from the petitioner.”

6.Even as regards this petitioner, the prosecution has not collected any evidence so far, to show that the cash seized from the accused was earned by selling the banned tobacco except for the alleged confession of the petitioner. Admittedly, the contraband worth Rs.10,00,000/- (Rupees Ten Lakhs only) has been seized by the respondent. Therefore, this Court is of the view that the cash can be returned as was done in the case of co-accused with the condition that it would be subject to the result of the trial.

7.Therefore, the learned Judicial Magistrate No.II, Ariyalur is directed to return the amount of Rs.4,03,000/- to the petitioner subject to the following conditions:

(i)The petitioner shall execute a personal bond for sum of Rs.10,000/- [Rupees Ten thousand only] with two sureties each to the satisfaction of the learned Judicial Magistrate No.II, Ariyalur.

(ii)It is seen that the amount seized (Rs.4,03,000/-) are two thousand



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rupee notes, these notes now withdrawn from circulation. In view of the same, the learned Judicial Magistrate No.II, Ariyalur shall take photographs of these two thousand rupee notes, draw inventory of the seized notes for the purpose of marking as exhibits during trial. Thereafter, the two thousand rupee notes to be sent to the Reserve Bank of India for conversion. On conversion, the amount to be handed over to the petitioner.

(iii)The petitioner is directed to file an affidavit before the learned Judicial Magistrate No.II, Ariyalur on undertaking that this amount of Rs.4,03,000/- (Rupees four lakh three thousand only) is subject to the outcome of the trial.

8.In the result, this Criminal Revision Case stands allowed setting the impugned order, dated 04.08.2023 in Cr.M.P.No.5655 of 2023 passed by the learned Judicial Magistrate No.II, Ariyalur.

28.11.2024

Index:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No

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SUNDER MOHAN, J.

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To

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

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