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Crl.R.C.No.2257 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

C O R A M

THE HONOURABLE Mr.JUSTICE **SUNDER MOHAN**

Crl.R.C.No.2257 of 2024

C.Parthiban

...

Petitioner

Vs

The Station House Officer,
CCB Tambaram P.S.,
Cr.No.17/2024

...

Respondent

PRAYER: Criminal Revision Case filed under Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the order passed by the learned Judicial Magistrate – II, Chengalpattu, in Crl.M.P.No.2329 of 2024 dated 16.10.2024 only in respect of the first condition more particularly directing the petitioner to furnish one surety for Rs.4,00,000/- (Rupees Four Lakhs) as arbitrary and is in violation of Article 14 and 21 of the Constitution of India.

For petitioner

...

Mr.M.Erajasimhan

For respondent

...

Mr.S.Udaya Kumar

Government Advocate (Crl. Side)

ORDER

This Criminal Revision challenges the condition imposed by the learned Judicial Magistrate No.II, Chengalpattu, while directing the return of cash which was illegally transferred from the account of the petitioner pursuant to an act of cheating by the accused.



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2. The petitioner had lodged a complaint before the respondent Police stating that he was a victim of an online fraud and a sum of Rs.19,93,077/- had been defrauded by the suspected accused person pursuant to the said online fraud.

3. The respondent had frozen the accounts of the suspects under Section 102 of the Code of Criminal Procedure and thus, recovered a sum of Rs.4,05,592/-.

4. The petitioner therefore, filed a petition under Section 451 r/w. 457 of Cr.P.C. to return the cash of Rs.4,05,592/-, which was frozen by the respondent.

5. The respondent filed a counter stating that they have no objection for returning the amount to the petitioner. Hence, the trial Court had allowed the petition filed by the petitioner *inter alia* on the following condition:

“(i). The petitioner should execute a bond for Rs.4,00,000/- along with two sureties each for a likesum to the satisfaction of this Court”



6. The petitioner is aggrieved by the condition to furnish two sureties each for a sum of Rs.4,00,000/-. In a similar case, this Court had set aside the condition to furnish surety in Crl.R.C.No.1774 of 2024. The relevant portion reads as follows:-

“The respondent Police have no objection for the amount to be handed over to the petitioner but the only apprehension is that in the event of accused being secured and charge sheet filed in the case and later, the accused makes claim of money, the same to be made available. For that reason an undertaking and bond can be executed by the petitioner.”

7. Since the petitioner is similarly placed, this Court is of the view that the petitioner can be directed to execute a bond and also file an affidavit of undertaking that he would return the cash if it is so required during the course of trial. Hence, in view of the same, condition No.1 insofar as it relates to directing the petitioner to furnish two sureties each for a sum of Rs.4,00,000/- is set aside and the petitioner is directed to execute a bond for a sum of Rs.4,00,000/- and also an affidavit of undertaking as stated above. The other conditions imposed by the learned Magistrate shall remain



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unaltered.

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8. In the result, this Criminal Revision Petition is allowed and the order dated 16.10.2024 passed in Crl.M.P.No.2329 of 2024 by the learned Judicial Magistrate No.II, Chengalpattu is modified, insofar as condition No.1 is concerned.

11.12.2024

rsi

Index: Yes/No

Neutral Citation: Yes/No

To

- 1.The Judicial Magistrate No.II,
Chengalpattu.
- 2.The Station House Officer,
CCB Tambaram P.S.
- 3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J

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