



Crl.O.P.(MD).No.2377 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.03.2024

CORAM:

THE HONOURABLE Mr. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD).No.2377 of 2024

Nagarajan

... Petitioner

Vs.

- 1.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 2.The Deputy Superintendent of Police,
Manamadurai,
Sivagangai District.
- 3.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
- 4.Sivakumar
- 5.Jayaprakash
- 6.Maruthu
- 7.Krishnamoorthy
- 8.Alagu

...Respondents



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Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, directing the Respondents 3 to 8 to return the Petitioner's Cell Phone of VIVO with SIM card, which was seized by them from the Petitioner on 06.02.2024 and kept under the illegal custody of the third Respondent Police Station.

For Petitioner : Mr.R.Murugappan

For R-1 to R-3 : Mr.M.Veeranthiran,
Government Advocate
(Criminal Side)

ORDER

When the matter came up for hearing on 21.02.2024, this Court passed the following order:

The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition seeking direction against the Respondents 3 to 8 for returning the Petitioner's mobile phone viz., VIVO with SIM card.

2. It is the submission of the learned Counsel for the Petitioner that the Petitioner's mobile phone was seized by the Respondents 3 to 8 and it is now under the illegal custody of the third Respondent.



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3. The learned Government Advocate (Criminal Side), on instructions of the Respondents 1 to 3, would submit that the Petitioner is a history sheeter. He would further submit that there are proceedings against him under Section 110 Cr.P.C.

4. The submission of the learned Government Advocate (Criminal Side) cannot be accepted, considering the earlier ruling of this Court that when there is no case for the past 5 years against any accused, Section 110 Cr.P.C proceedings cannot be initiated.

5. On request of the learned Government Advocate (Criminal Side) to furnish the details regarding mobile phone, the case is adjourned to 29.02.2024.

6. Registry is directed to post this case on 29.02.2024 as "part heard cases" on top of the list.

2. The learned Government Advocate (Criminal Side) on instructions of the Respondents 1 to 3 would submit that the cell phone was not at all taken away by the Respondents. Also he would submit that the Petitioner is a history sheeter. In order to get publicity, he had filed this petition. The Petitioner had filed this petition seeking return of mobile phone without giving mobile



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number. On the day, when the case came up for hearing, the learned Government Advocate sought mobile number. After furnishing the mobile number, when the Respondent Police traced the mobile phone, they could not trace it and it is found switch off. Therefore, the Petitioner himself suppressing those facts that it is available with him, had filed this petition.

3. The learned Counsel for the Petitioner by way of reply submitted that the case of history sheet is not true. All the cases were pending against him 5 years before. As per the Police Standing Orders, the history sheet is maintained only for 2 years. Only 2 cases are now pending against him, in which he is regularly appearing before the Respondent Police and no fresh case has been registered to consider him as history sheeteer. The learned Counsel for the Petitioner further stated that the cases mentioned by the Respondent are five years before and no new case has been registered against him.

4. To the query of this Court to the Petitioner why he had not challenged the history sheet. He states that he reserves his right to challenge the same. It is the contention of the learned Government Advocate (Criminal Side) that the when the Police went to the residence of the Petitioner, he ran away. In the



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course of such escape, he had lost the mobile phone elsewhere, for which he is blaming the Police to secure his mobile phone. When the Respondent Police attempted to trace the mobile phone, it is switched off. Therefore, the tower location could not locate the mobile phone. The mobile phone was not taken away by the Respondent Police, it is the Petitioner, who had missed it elsewhere, while escaping from the Police. The Petitioner seeks intervention of this Court to trace the mobile phone.

5. Earlier the Petitioner had filed Crl.O.P.(MD).No.2098 of 2024 seeking direction against the Respondent Police not to harass him and this Court vide order dated 09.02.2024 disposed of the petition by directing Petitioner to file separate petition. Only on the direction of this Court, the Petitioner had filed this petition.

6. After hearing the learned Counsel for the Petitioner and the learned Government Advocate (Criminal Side), this Court directs the Petitioner to appear before the Superintendent of Police, Sivagangai and the Superintendent of Police, Sivagangai may conduct enquiry and pass appropriate orders.



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7. With the above direction, this Criminal Original Petition is disposed of.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

- 1.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 2.The Deputy Superintendent of Police,
Manamadurai,
Sivagangai District.
- 3.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SATHI KUMAR SUKUMARA KURUP, J.

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