



Crl.R.C.(MD)No.196 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD)No.196 of 2024

Y.Pilavendiran

.. Petitioner

Vs.

The State rep. by
The Sub-Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
Crime No.471 of 2023

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order dated 11.12.2023 passed in Cr.M.P.No.8213 of 2023 on the file of the learned Judicial Magistrate Court No.II, Sivakasi and set aside the same as illegal and arbitrary and further direct the learned Judicial



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Magistrate No.II, Sivakasi to return the cash of Rs.1,17,300/- seized from the petitioner with Crime No.471 of 2023 on the file of the respondent police, pending of the trial by allowing this Criminal Revision Petition.

For Petitioner : Mr.N.Marimuthu

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

ORDER

Challenging the order of dismissal passed by the learned Judicial Magistrate No.II, Sivakasi, in Crl.M.P.No.8213 of 2023, with regard to return of cash of Rs.1,17,300/- (Rupees One Lakh Seventeen Thousand and Three Hundred only) which was seized from the petitioner, the present Criminal Revision Petition has been filed.

2. The petitioner is the first accused in Crime No.471 of 2023 on the file of the respondent police, for the offences under Sections 328 IPC and 6(b) r/w. 24(1) of Cigarette and Other Tobacco Products Act.



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3. The allegation levelled against the petitioner is that on 20.10.2023, on a vehicle check up near Pillayar Kovil, Sivakasi Amman Kovilpatty, a car namely, Alto bearing Registration No.TN 67 AS 5766, was stopped and searched by the respondent police and they found that the petitioner/ A1 along with A2 were in possession of banned tobacco products. The petitioner was arrested and the entire tobacco products were seized along with the car by the respondent police and also a cash of Rs.1,17,300/- (Rupees One Lakh Seventeen Thousand and Three Hundred only) was recovered from the petitioner. Hence, the respondent police registered a case in Crime No.471 of 2023 for the offences under Sections 328 IPC and 6(b) r/w. 24(1) of Cigarette and Other Tobacco Products Act, 2003.

4. It is seen from the records that while pending investigation, the petitioner has filed a petition for return of cash, which was seized from his possession and the same was dismissed on the ground that the investigation is still pending and the ownership of the cash would come to light only after completion of investigation.



5. The learned counsel appearing for the petitioner would submit that the petitioner, by pledging his wife's jewels, got Rs.64,000/- (Rupees Sixty Four Thousand only) from Kosamattam Finance Ltd., Sivakasi on 12.10.2023 and also kept their savings money which totally comes around Rs.1,17,300/- (Rupees One Lakh Seventeen Thousand and Three Hundred only) for their fertility treatment and the respondent police, while searching the car has seized the amount.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there were totally two accused and that the petitioner is A1 and he has four previous cases.

7. Admittedly, the said cash was seized from the petitioner and there was no other claim in this regard by the other accused. Further, the learned counsel appearing for the petitioner submitted that the petitioner is ready and willing to produce the bank guarantee for release of the cash.



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8. In view of the above, the Criminal Revision Petition is allowed and the impugned order passed by the learned Judicial Magistrate No.II, Sivakasi, in Crl.M.P.No.8213 of 2023 dated 11.12.2023 is set aside and the Court below is directed to return the cash of Rs.1,17,300/- (Rupees One Lakh Seventeen Thousand and Three Hundred only) seized from the petitioner on condition that the petitioner shall furnish the bank guarantee for the equal sum. On such production of bank guarantee for the said amount, the Court below is directed to return the seized cash to the petitioner.

23.02.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM



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Copy to

1.The Judicial Magistrate Court No.II,
Sivakasi

To

1.The Sub-Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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VIVEK KUMAR SINGH, J.

RM

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