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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Thursday, the Twenty Sixth day of September Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD). No.10212 of 2024

AND

CrI.R.C.(MD)No.477 of 2023

I.Vethakkan Pious,
S/o Irudhaya Nathan,
D.No. 13/6, Nambiyavilai,
Near Rajesh Service,
Salaiputhur West,
North Valliyoor 627 117
Radhapuram Taluk,
Tirunelveli District.

... Petitioner/ Appellant/ Accused

Vs

1.A.K.Tayala Kannan,
S/o Arumuga Nainar Nadar,
14 Mannaraja Temple Street,
Thisayanvilai- 627 657,
Thisayanvilai Taluk,
Tirunelveli District.
(Thisayanvilai Police Station Limit).

... Respondent/ Respondent/ Complainant

Prayer in CRL MP(MD).No.10212 of 2024:-

Criminal Miscellaneous Petition Under Section 528, Bharatiya Nagarik
Suraksha, 2023, to directing the Learned Judicial Magistrate, Sathankulam,
Thoothukudi to refund Rs.70,000/- which is deposited in view of the order passed
by the Learned Principal Sessions Judge, Thoothukudi in Cr.M.P.No.3193/2020 dt



04.02.2021 and Rs.3,50,000/-which is deposited in view of the order passed by this court in Crl.M.P.(MD)No.6987 &6989 of 2023 dated 28/04/2023 from the Court of Lesrned Judicial Magistrate, Sathankulam in the above S.T.C.No.622 of 2016 in my savings bank account No. 159100720600207 of Tamil Nadu Mercantile Bank Limited,Valliyoor.

Prayer in CRL RC(MD).No.477 of 2023:-

Criminal Revision Petition has been filed under section 397 r/w 401 of Cr.P.C.,to call for the records relating to the Judgment dated 15.03.2023 made in Crl.A.No.11 of 2021 on the file of the Principal Sessions Judge, Thoothukudi, confirming the Judgment dated 11.02.2020 made in S.T.C. No.622 of 2016 on the file of the Judicial Magistrate Court,Sathankulam against the above petitioner and set aside the same.

ORDER:- This Criminal Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. T.Balasubramanian, Advocate for the Petitioner and of M/S. B.N.Raja Mohamed, Government Advocate for the respondent, this Court made the following order:

The above petition has been filed challenging the order of return dated

03.08.2024 made by the learned Judicial Magistrate, Sathankulam, Thoothukudi

<https://www.mhc.tn.gov.in/judis>

District in the petition filed for refund of the amount, which was deposited by the



petitioner, wherein, the learned Magistrate has stated that no order has been passed regarding refund of amount by the High Court in the order dated 26.07.2024.

2. It is not in dispute that the petitioner as well as the respondent have entered into a compromise and they have filed a joint compromise memo and this Court, recording the same, has set aside the judgment of conviction and acquitted the petitioner from the charges levelled against him.

3. The learned counsel appearing for the petitioner would submit that the respondent has received Rs.7 lakhs in pursuance of the compromise entered into between the parties and as such, the petitioner is entitled to get back the amount which came to be deposited by him and that the learned Magistrate, without considering the same, has made such an endorsement.

4. Since the joint compromise memo contains a specific clause that the respondent has received Rs.7 lakhs, the impugned order of return as there was no specific direction from this Court cannot be sustained. Hence, the impugned order of return dated 03.08.2024 is set aside. The learned Judicial Magistrate, Sathankulam, Thoothukudi is directed to take the petition on file and proceed in accordance with law and refund the amount as claimed.



5. In the result, this Criminal Miscellaneous Petition is allowed.

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// True Copy //

Sd/-

Assistant Registrar(CO)

/10/2024

Sub Assistant Registrar
(CS- I/ II / III / IV)

TO

1. The Judicial Magistrate,
Sathankulam,
Thoothukudi District
2. The Principal Sessions Judge, Thoothukudi,

Copy to:

The Section Officer,
Record Section,(Criminal),
Madurai Bench of Madras High Court,
Madurai.



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ORDER DATED : 26/09/2024

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ORDER

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CRL MP(MD). No.10212 of 2024

AND

Cr1.R.C.(MD)No.477 of 2023

Giving direction and etc.

as stated within.

MGJ(22.10.2024) 5P 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17.07.2023