



CrI.O.P.(MD)No.20632 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.(MD)No.20632 of 2024

Boobalan

... Petitioner

Vs.

The Inspector of Police,
Prohibition and Enforcement Wing,
Thoothukudi.
Crime No.462 of 2021

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the return order passed in unnumbered CrI.M.P.No... of 2024 in Cr.No.462 of 2021 on the file of the Judicial Magistrate, Srivaikundam, dated 07.06.2024 and set aside the same.

For Petitioner	: Mr.R.Balakrishnan
For Respondent	: Mr.A.Thiruvadikumar Additional Public Prosecutor



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ORDER

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The petitioner, who is the third accused in Crime No.462 of 2021 for the offence under Sections 4(1-A), 4(1)(aaa), 4(1)(i) and 14A of Tamil Nadu Prohibition Act, had filed a return of property petition seeking for return of Rs.14,51,850/-, which was seized from the petitioner on 03.06.2021 and the same has been produced as case property in P.R.No.193 of 2021 on 07.06.2021. The petitioner needs money back, since this money does not pertain to offence in Crime No. 462 of 2021. The petitioner earlier filed Crl.M.P.No.2184 of 2021 and Crl.M.P.No.91 of 2022, the same were dismissed on merits. The present petition was filed on 06.06.2024 and the same was returned on 07.06.2014, for the reason that the lower Court was under impression that when earlier two petitions under Section 451 of Cr.P.C., had been dismissed and the third petition cannot be entertained and hence, the same was returned, which is not proper. He submitted that the petition seeking for interim custody of property, which ought to have been entertained and thereafter, order to be passed on merits. Hence, filed this petition.



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2. The learned Additional Public Prosecutor submitted that Rs. 14,51,850/- has been seized from the petitioner and the same was produced before the Court and PR.No.193 of 2021 assigned. The said amount i.e., Rs.14,51,850/- was with various denominations. There were 25 notes, which are Rs.2000/- denomination and the same was sent to Reserve Bank of India to convert into valuable currency, since Rs.2000/- notes have been now withdrawn from circulation. In any event, the trial Court ought to have entertained the petition on merits and not returned.

3. Considering the above submissions and perused the materials placed, the petitioner cannot be stopped by filing return of his property. From the petitioner, amount of Rs.14,51,850/- in various denomination I.e., Rs.2000/- notes and Rs.20/- notes, have been seized. Already Rs. 2000/- notes have been withdraw from circulation. The petitioner's contention on merits ought to have been considered and orders to be passed on merits. There is no res-judicata in filing the interim applications any number of time and no petition can be returned without proper adjudication. In view of the same, the petitioner is directed to re-present the petition seeking for return of property and thereafter, the trial



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Court to consider the petition on merits and pass order.

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

NCC : Yes / No

27.11.2024

Index : Yes / No

Rmk

NOTE: Registry to return the original papers filed by the petitioner along with this petition to the petitioner enabling him to re-present the same before the trial court.

To

- 1.The Inspector of Police,
Prohibition and Enforcement Wing,
Thoothukudi.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

M.NIRMAL KUMAR, J.



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Rmk

Order made in
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