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Crl.R.C(MD)No.1346 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2023

Pronounced on : 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1346 of 2023

D.Karthikeyan

... Petitioner

Vs.

State represented through
The Inspector of Police,
CCD-III,
Cyber Crime Unit,
Tirunelveli District.

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the impugned order dated 24.04.2023 passed in Crl.M.P.No.7160 of 2023 on the file of the Judicial Magistrate No.1, Tirunelveli, set aside the same and consequently direct the respondent police to hand over the petitioner's subject matter of the property (Money) and allow this revision petition.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate (Crl.side)



ORDER

This Criminal Revision Case is filed to set aside the order dated 24.04.2023 passed in Crl.M.P.No.7160 of 2023 on the file of the learned Judicial Magistrate No.1, Tirunelveli and to direct the respondent to hand over the petitioner's subject matter of the property (money).

2.The brief facts of the case:

The revision petitioner is the defacto complainant in the case registered in Crime No.31 of 2022 on the file of the respondent police. The petitioner was working as Commandant in Tamil Nadu Special Police 12th Battalion, Manimuthar, Tirunelveli District. He is having mobile number 9498118666 and Whatsapp in the same number. On 11.08.2022 at 14.22 hours he received Whastapp message from 8142781808 showing police higher official photo. The sender had conversation with the petitioner about Amazon Gift Voucher and believing his words, the petitioner sent Rs.7,50,000/- from his bank account number. On coming to know the petitioner was cheated, the petitioner lodged complaint and the case was registered.

3. The respondent police has frozen 4 accounts of A3 RamChanso Kasar i.e., Canara Bank, Neelasandra Branch Account No.110047005364



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Rs.2,00,000/-; UCO Bank, Koramangala Branch Account No.10530110066911 – Rs.9,145/-, Bank of India, Koramangala Branch Account No.847910110004810 Rs.1/-; Account No.84791651000102 – Rs.524.01/-. The amount in those accounts consist the amount of the petitioner. So, the petitioner filed the petition in Crl.M.P.No.7160 of 2023 seeking to defreeze the accounts and to produce an amount of Rs.2,09,669/- before the Judicial Magistrate Court and to return the same to the petitioner. The petition was strongly resisted by the respondent police. After hearing both the learned Judicial Magistrate No.1, Tirunelveli dismissed the said petition on 24.04.2023. Being aggrieved by the order, the petitioner preferred this Criminal Revision Case.

4. Heard both side and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that believing the words of the accused the petitioner transferred amount through bank account towards purchase of Amazon Gift Voucher. The learned Judicial Magistrate failed to consider the fact that on the basis of complaint the bank accounts of the accused were frozen. As per Criminal Procedure Code, the property means which



includes the money also. The learned Judicial Magistrate wrongly held that that there is no material to show whether Rs.7,50,000/- cheated by the accused was deposited in his account. The petitioner is ready to file undertaking to redeposit the amount.

6. The learned Government Advocate (Crl.side) for the respondent contended that the respondent police arrested 5 accused and the bank account of Accused Ramchanso Kasar were freezed. The case is in the nature of cyber crime and online cheating. The respondent police filed the statement of bank of the said accused. On the alleged date there is no deposit of money sent by the petitioner. The petitioner has not proved the ownership of the money as rightly held by the learned Judicial Magistrate. If the money in question is returned, it would affect the further investigation and the original owner of the property. The investigation is pending at preliminary stage. Therefore, he strongly opposed this petition.

7. On hearing both, it is clear that the petitioner was working as Commandant in Tamil Nadu Police 12th Battalion, Manimuthar, Tirunelveli District. The petitioner is using mobile number 9498118666 with Whatsapp. There is no dispute. It is alleged by the petitioner that



on 11.08.2022 at 14.22 hours he received Whastapp message from 8142781808 and after conversation he deposited Rs.7,50,000/- through his bank account for purchase of Amazon Gift Voucher, later he came to know that he was cheated. It is the case of the petitioner that on the basis of complaint lodged by him, the respondent police registered the case and arrested the accused and also frozen the bank account of the accused and hence, the petitioner prays return of money by defreezing the account.

8. On perusal of impugned order of the trial court and also statement of account produced by the respondent police, on the alleged dates 11.08.2022 to 13.08.2022 relating the frozen Account No. 110047005364 there is no *prima facie* any credit of the alleged deposit amounts made by the petitioner and there is no *prima facie* material to show that the petitioner is the owner of the property. Further, the petitioner has not produced any other bank account detail. On perusal of records, as rightly held by the trial Magistrate, the accounts of the accused were frozen for the purpose of investigation and after thorough investigation it would come to light whether the accused had transacted from out of the amount of the petitioner or others and what is the role of the present Ramchanso Kasar. At this preliminary investigation stage, it would not *prima facie* decide the ownership of the property. In the above



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circumstances, this Court is not inclined to interfere with the order of the trial Court and this Criminal Revision Case has no merits.

9. In the result, the Criminal Revision Case is dismissed.

02.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Judicial Magistrate No.1,
Tirunelveli.
- 2.The Inspector of Police,
CCD-III,
Cyber Crime Unit,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1346 of 2023

02.02.2024