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Crl.O.P. No. 21555 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

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THE HONOURABLE MR. JUSTICE G.K. ILANTHIRAIYAN

Crl.O.P. No. 21555 of 2024

P.N. Rakesh Kannan

..Petitioner

Vs.

1. State rep. by
The Inspector of Police,
Pallipalayam Police Station,
Namakkal District.

2. The Assistant Director,
Department of Handloom and Textiles,
Tiruchengode Circle,
Tiruchengode, Namakkal District.

..Respondents

Prayer: Criminal Original Petition under Section 482 Cr.P.C./528 BNSS to direct the respondents to comply with the order passed by the learned Judicial Magistrate, Komarapalayam in Crl.M.P. No. 244 of 2024 dated 01.08.2024 and consequently hand over the case property of Crime No. 93 of 2020 on the file of the 1st respondent to the petitioner within a time limit to be fixed by this Hon'ble Court.

For Petitioner :: Mr.K. Dhivyashree

For Respondents :: Mr.R. Vinothraja
Govt. Advocate (Crl.Side) for R1 & R2



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ORDER

This criminal original petition has been filed for a direction to the respondents to comply with the order dated 01.08.2024 passed by the learned Judicial Magistrate, Kumarapalayam, in Crl.M.P.No.244 of 2024.

2. The learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that after completion of investigation in crime No.93/2020, it was closed as 'mistake of fact' and a closure report was also filed before the Court concerned. However, the 2nd respondent filed a protest petition and it is pending on the file of the Judicial Magistrate Court, Kumarapalayam, in Crl.M.P.No.15/2024 for enquiry.

3. It is seen that the petitioner filed a petition in Crl.M.P.No. 244/2024 on the file of the Judicial Magistrate Court, Kumarapalayam, for return of property which was seized from the petitioner, during investigation. After considering the facts and circumstances of the case, the



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learned Judicial Magistrate, Kumarapalayam, by order dated 01.08.2024, directed the 1st respondent to return the property which was seized from the petitioner. However, the learned Government Advocate (Crl. Side) submitted that now the property is in the possession of the 2nd respondent.

4. In such view of the matter, the 1st respondent is directed to take possession of the seized property from the custody of the 2nd respondent and handover the same to the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the pendency of the protest petition is not an impediment to return the property to the petitioner. If the protest petition is allowed, the petitioner has to face the prosecution. Therefore, absolutely there is no impediment to return the property to the petitioner.

5. Further, it is also submitted that the 2nd respondent has also filed criminal revision as against the order dated 01.08.2024 passed by the learned Judicial Magistrate, Kumarapalayam, on the file of the Principal



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Sessions Court, Namakkal. Even if the revision is pending as against the order and no interim order is passed by the revision Court, there is no impediment to return the property to the petitioner, if the revision as well as the protest petition is allowed.

With the above direction, this criminal original petition is allowed.

07.02.2025

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To
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1. The Inspector of Police,
Pallipalayam Police Station,
Namakkal District.
2. The Assistant Director,
Department of Handloom and Textiles,
Tiruchengode Circle,
Tiruchengode, Namakkal District.
3. The Public Prosecutor,
High Court, Madras.



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G.K. ILANTHIRAIYAN,J.

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