



Crl.R.C.Nos.1807 & 1949 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.Nos.1807 & 1949 of 2023

R.Elangovan

... Petitioner in both
Crl.R.Cs.

Vs.

1. The State Rep. by
The Inspector,
E-2, Peelamedu Police Station,
Coimbatore.

2. C.Sivakumar

... Respondents in
both Crl.R.Cs.

COMMON PRAYER: Criminal Revisions have been filed under Section 397 r/w 401 of Cr.P.C., praying (i) to set aside the impugned order dated 20.09.2023 passed by the learned Judicial Magistrate-II, Coimbatore in C.M.P.Nos.24306 & 24308 of 2023 respectively as being contrary to law; (ii) consequently order the property to be delivered to the petitioner in accordance with the procedure contemplated under Section 457 of Cr.P.C.

In both Crl.R.Cs.

For Petitioner : Mr.P.M.Prasanth Narayanan

For Respondents

For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R2 : Mr.G.Govarthanan
For Mr.B.Ramamoorthy



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COMMON ORDER

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Both the Criminal Revision Cases have been preferred against the common judgment dated 20.09.2023 passed by the learned Judicial Magistrate-II, Coimbatore in C.M.P.Nos.24306 & 24308 of 2023 respectively, thereby dismissing the petitions to return of property.

2. The petitioner lodged complaint as against the second respondent and other accused alleging that the petitioner borrowed a sum of Rs.5,00,000/- as loan on 28.06.2012 with interest at the rate of 360% per annum. Thereafter, entire loan amount was repaid in total sum of Rs.11,00,000/- on 22.04.2013. Even then, the accused persons insisted the petitioner to pay further interest of Rs.7,50,000/-. After completion of the said loan, once again, in the month of July 2013, the petitioner borrowed a sum of Rs.35,00,000/-. Though the petitioner repaid the interest in total sum of Rs.13,25,000/-, the accused persons demanded more interest. Even after receipt of huge amount, the accused had issued legal notices dated 01.11.2021 and 12.12.2022 claiming further sum of Rs.61,00,000/-. Thereafter, the accused had stolen the entire machineries, which were kept in the factory premises of the petitioner. Therefore, the petitioner lodged complaint on 26.12.2022 and on receipt of the same, the first respondent registered a FIR in Crime No.4 of 2023 for the



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offences under Section 379 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

3. During the course of investigation, the first respondent seized several machineries from the second respondent's premises which belongs to the petitioner. Therefore, the petitioner filed a petition in C.M.P.No.24306 of 2023 for return of property. At the same time, the second respondent also filed another petition in C.M.P.No.24308 of 2023 for the very same prayer. The trial Court heard both the petitions together and dismissed both petitions. Further the trial Court also directed the petitioner as well as the second respondent to approach the civil Court in respect of their ownership of the machineries, since the second respondent made claim that the machineries were sold out in their favour. Hence, the petitioner filed the present revisions.

4. The learned counsel appearing for the petitioner submitted that there are specific allegations as against the accused persons that they had also taken away unfilled blank signed cheque and signed stamp papers. Therefore, the accused persons had created receipt as if, the petitioner had sold out the machineries to the accused. The accused persons had created the receipts and other documents in order to show that the machineries were sold out in their



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favour. Further, the accused persons filed the petition for return of property to substantiate their contention.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent police submitted that after dismissal of both the petitions, the trial Court directed the first respondent to produce the machineries before the Court below. On 26.04.2023, all the machineries, which were seized by the first respondent, were produced before the trial Court. However, so far, the trial Court did not assign any Case Property number. Now all the machineries are kept in the farm land owned by one Selvaraj.

6. The learned counsel appearing for the second respondent has taken specific stand that the list of machineries submitted by the petitioner and the properties which were seized by the first respondent are different.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. Admittedly, the petitioner owned all the machineries and he lodged complaint alleging that the second respondent had created false receipt



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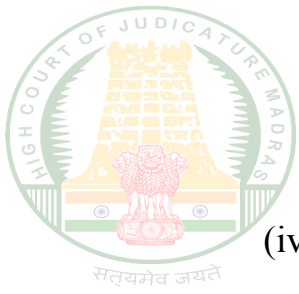
for purchase of machineries. Therefore, there is no question of ownership of the machineries which were seized by the first respondent. Further the provision under Section 451 of Cr.P.C., provides for protection of the property from degradation due to non maintenance in the custody of the police as it takes long time for conclusion of criminal proceedings. The machineries are in broad day light from the date of seizure and hence no useful purpose will be served in keeping the vehicles parked in the sunlight and rain.

9. In view of the above discussions, this Court is inclined to return the machineries to the petitioner and accordingly, the common order passed in C.M.P.Nos.24306 & 24308 of 2023 dated 20.09.2023 by the Judicial Magistrate-II, Coimbatore, is hereby set aside. The petitioner is permitted to take possession of the machineries which are kept in the private land owned by one Selvaraj, forthwith on the following conditions:-

(i) the petitioner shall deposit the original invoices/bills of the machineries with the concerned Magistrate.

(ii) the seized item should be photographed at the cost of the petitioner herein and a list is to be prepared and the same is to be signed by the petitioner.

(iii) the petitioner shall not alienate and shall not make any alteration in the machineries.



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(iv) the petitioner shall produce the machineries before the Court and

before the respondent police as and when required;

(v) If any of the conditions are violated, this order automatically stands cancelled.

10. Accordingly, both the Criminal Revision Cases stand allowed.

03.07.2025

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

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- 1.The Judicial Magistrate-II,
Coimbatore
- 2.The Inspector,
E-2, Peelamedu Police Station,
Coimbatore.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,

rts

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