



Crl.R.C.(MD)No.7 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.03.2025

Delivered on : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.7 of 2023

Muthu

: Petitioner

Vs.

State rep.by the Inspector of Police,
Fort Crime Police Station,
Tiruchirappalli.
Crime No.862 of 2022.

: Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the order, dated 28.07.2022 made in Cr.M.P.No.17165 of 2022 on the file of the learned Judicial Magistrate No.I, Tiruchirappalli.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mrs.M.Aasha,
Government Advocate (Criminal Side)



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ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.17165 of 2022, dated 28.07.2022 on the file of the learned Judicial Magistrate No.I, Tiruchirappalli, dismissing the petition filed under Section 451 r/w 457 of the Code of Criminal Procedure.

2. On the basis of the complaint lodged by one Vinoth Sathya Lazar alleging that his laptops and Mixie were stolen, FIR came to be registered in Crime No. 862 of 2022 for the offences under Sections 457 and 380 of IPC against the unknown person.

3. It is the case of the prosecution that the respondent police, after coming to know that the stolen Realme Pad came to be used through a mobile No.6380924068, they have arrested the petitioner and on enquiry, he gave a confession statement that he purchased the Realme Pad from one Muthu @ Marimuthu knowing that it was stolen property; that the respondent police has then recovered the Realme pad and also the cell phone used by the petitioner; that thereafter, they have formally arrested the first



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accused, who was in judicial custody in connection with another case and recovered the other lap top and other stolen property and that after completing the investigation, they have filed the final report before the jurisdictional Court.

4.It is evident from the records that the learned Judicial Magistrate No.I, Tiruchirappali, upon receiving the final report has taken the same on file in C.C.No.481 of 2023 and is pending. It is also not in dispute that the respondent police has produced the recovered properties before the jurisdictional Court and the same came to be received and remanded in RPR.No.1 of 2023. The petitioner who is the second accused has moved an application under Sections 451 r/w 457 of Cr.P.C., seeking interim custody of the cell phone recovered from him in Crl.M.P.No.17165 of 2022 and the learned Magistrate, considering the objections raised by the prosecution, has passed the impugned order, dated 28.07.2022, dismissing the said petition. Aggrieved by the impugned order of dismissal, the present revision came to be filed.



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5. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the mobile phone namely Vivo V17 Pro Color Midnight Ocean Black; that the petitioner was implicated in the above case as if he received the stolen property from the first accused; that the petitioner is having bill to establish that he is the owner of the mobile and that the learned Magistrate, without considering the material aspect that the mobile phone is not the stolen property, has proceeded to dismiss the petition.

6. The prosecution has raised objections that the petitioner had used the mobile phone in dispute for purchasing the stolen properties and that the investigation is pending. The learned Magistrate, by referring to the above objections raised by the prosecution and by holding that returning of the mobile phone to the petitioner will not be in the interest of justice, has dismissed the petition.

7.As rightly contended by the learned counsel for the petitioner, the learned Magistrate has not assigned any other reason for dismissing the petition. Admittedly, the mobile phone in dispute is not stolen property.



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Moreover, it is not the case of the prosecution that the said mobile phone came to be purchased by utilizing the stolen amount or any other amount obtained illegally.

8. In the counter affidavit filed by the respondent police before this Court, it has been stated that the petitioner and the other accused had conversation in between them regarding the purchase of stolen property and as such, the mobile phone in dispute is a vital evidence and in case, if the property is returned to the petitioner, he will sell the same to some other person or destroy the same to escape from the clutches of law.

9. According to the prosecution, the petitioner was arrested and the properties including the mobile phone in dispute came to be recovered on 22.06.2022. It is not the case of the prosecution that they have sent the mobile phone to forensic lab to extract the contents available in the mobile phone or the alleged conversation between the accused. As already pointed out, the respondent police has already filed the final report and the same was taken on file in C.C.No.481 of 2023.



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10. Considering the above, the objections now raised by the prosecution and the impugned reason advanced by the learned Magistrate in dismissing the petition cannot be sustained. Consequently, this Court concludes that the property in dispute is to be returned to the petitioner on interim custody, but on necessary conditions.

11. Accordingly, this Criminal Revision Petition is allowed and the order, dated 28.07.2022 passed in Cr.M.P.No.17165 of 2022 on the file of the learned Judicial Magistrate No.I, Tiruchirappalli, is hereby set aside and the aforesaid property is ordered to be returned to the petitioner for interim custody subject to the following conditions:-

(a) the petitioner shall execute a bond for a sum of **Rs.25,000/-**

(Rupees Twenty Five Thousand only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.I, Tiruchirappalli ;

(b) the petitioner shall not alienate or encumber the property in dispute without permission from the concerned Court ;



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(c) the petitioner shall produce the property before the trial Court as
and when required.

03.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Judicial Magistrate No.I, Tiruchirappalli.
- 2.The Inspector of Police,
Fort Crime Police Station,
Tiruchirappalli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

DAS

Pre-delivery order made in
Crl.R.C.(MD)No.7 of 2023

Dated: 03.06.2025