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Crl.R.C(MD)No.1369 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.12.2024

Pronounced on : 28.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1369 of 2024

Kannan @ Silambarasan

... Petitioner

Vs.

State of Tamil Nadu rep. by
The Sub Inspector of Police,
Tirumangalam Town Police Station,
Madurai District.
(Crime No.314 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records relating to the order, dated 24.10.202 made in Cr.M.P.No.7806 of 2024 in Crime No.314 of 2024 on the file of the Judicial Magistrate, Thirumangalam and set aside the same by allowing the above Criminal Revision Petition and consequently direct the Judicial Magistrate, Thirumangalam, to return the petitioner's iPhone 14 Promax cell phone (IMEI No.359265388711711) to the petitioner.

For Petitioner : Mr.S.Murugapandi

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



ORDER

WEB COPY This Criminal Revision Case is directed against the order, dated 24.10.2024 passed in Crl.M.P.No.7806 of 2024 on the file of the learned Judicial Magistrate, Thirumangalam and to set aside the same and to direct the learned Judicial Magistrate to return the seized iPhone 14 Promax cellphone to revision petitioner on interim custody.

2.The brief facts of the case:

The revision petitioner/Kannan @ Silabarasan and the defacto complainant/Mohammed Riyaz are stated to be friends. It is alleged that the defacto complainant had developed love affair with one Umadevi, who left from her parental house with 55 sovereign jewels and cash Rs.15 lakhs and they got married. It is further alleged that as there was no one available to help them, upon the advise of the petitioner they handed over those 55 sovereign jewels and cash Rs.15 lakhs to the petitioner and his family members and the defacto complainant and his wife went to Chennai for certain period. It is further alleged that after six months, the defacto complainant returned back to his hometown; on 06.08.2024, he approached the petitioner and demanded the 55 sovereign jewels and 15 lakhs from the petitioner, but the petitioner cheated him and also made



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criminal intimidation. Hence, the defacto complainant lodged a complaint and a case was registered in Crime No.314 of 2024 U/s.147, 406, 420, 294(b) and 506(ii) of IPC. During investigation, the Investigating Officer seized I Phone 14 Promax from the petitioner and remanded before the Judicial Magistrate Court, Thirumangalam in RPR.No.168 of 2024. The revision petitioner filed the petition in Crl.M.P.No.7806 of 2024 for return of cell phone before the learned Judicial Magistrate, Thirumangalam. After hearing, that petition was dismissed on 24.10.2024.

3. Aggrieved by the order of dismissal, the revision petitioner has come forward with this present Criminal Revision Case.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the cell phone, if it is kept idle without use, it would get fully damaged. The trial Court dismissed the petition only on the basis of confession statement of the petitioner



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that the cell phone was purchased from the money given by the defacto complainant. The confession statement given before the police official is not valid one. Therefore, the interim custody of the above cell phone may be granted to the petitioner.

6. The learned Additional Public Prosecutor appearing for the respondent has objected that the petitioner purchased the cell phone from out of cheated money, which was confessed by the petitioner himself. Moreover, the investigation is pending at the preliminary stage and part of cash only was recovered and still, the case properties to be recovered. The cell phone is material evidence for the prosecution case and if it is returned to the petitioner, he would alienate it.

7. On hearing both sides, it is clear that the cell phone and cash were seized from the petitioner, which is not disputed. It is the only reason stated by the petitioner that the cell phone was purchased by his own money and not as alleged by the respondent police. It is submitted by the petitioner's side that the respondent obtained confession statement from the petitioner as if the cell phone was purchased from out of money cheated from the defacto complainant. However, the same could be decided only at the time of final decision after adducing both sides



Crl.R.C(MD)No.1369 of 2024

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evidences. Till then there is a prima facie case in support of the prosecution. Considering the above facts and circumstances, this Court does not find any irregularity upon the order of the trial Court and does not warrant any interference. Therefore, this Court is not inclined to allow this Criminal Revision Case.

8. In the result, this Criminal Revision Case is dismissed.

28.01.2025

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

To

1. The Judicial Magistrate,
Thirumangalam
2. The Sub Inspector of Police,
Tirumangalam Town Police Station,
Madurai District.
(Crime No.314 of 2024)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C(MD)No.1369 of 2024

P.VADAMALAI, J.

VSD

**Pre - Delivery Order made in
Crl.R.C(MD)No.1369 of 2024**

28.01.2025