(1965) 08 MAD CK 0019

In the Madras High Court

Mohamed Thaha APPELLANT

Vs

First Income Tax Officer and Another RESPONDENT

Date of Decision : 19-08-1965

Acts Referred:
Income Tax Act, 1961 — Section 226, 226(4)

Citation : (1967) CriLJ 1422

Hon'ble Judges : Sadasivam, J

Bench : Single Bench

Judgement

Sadasivam, J.—Petitioner, Mohamed Thaha, was taken into custody by the Sub-Inspector of Police Railway Police, Mayuram, on 22nd

July 1964, as he was in possession of currency notes of one hundred rupee denomination to the tune of BS. 1,70,000 and he could not

satisfactorily account for the same. The said currency notes were sent to the Court of the Sub-Magistrate, Mayuram. After investigation by the C.

I. D., Crime Branch, Madras, further action was dropped by the police and petitioner, Mohamed Thaha, was released.

2. The case of the petitioner is that the amount was entrusted to him by his employer Mohamed Ibrahim. On 10th November 1964, Mohamed

Thaha and Mohamed Ibrahim filed a joint petition C. M. P. No. 433 of 1964 before the Sub-Magistrate, Mayuram, for the return of the said sum

to Mohamed Ibrahim in view of the fact that further action had been dropped by the Railway police. The first Income Tax Officer, Nagapattinam,

filed a petition before the Sub. Magistrate, Mayuram, praying that the amount in deposit claimed by Mohamed Ibrahim, may be ordered to be

handed over to the Income Tax Department towards the income tax assessment on Mohamed Ibrahim for the year 1964-65. On 21st November

1964, Mohamed Ibrahim filed a memo before the Sub-Magistrate, Mayuram, agreeing to the withdrawal of Rs. 1,70,000 from the Court by the

Income Tax Officer without prejudice to the rights of the partners of Yakoobia Traders Company. In dealing with a transfer application filed by the

petitioner, the Sessions Judge. East Tanjore Division, directed the Sub-Magistrate to act on the memo filed by Mohamed Ibrahim and to comply

with the demand of the Income Tax Officer. Accordingly the Sub-Magistrate, Mayuram, has directed the gum of Rs. 1,70,000 lying in court

deposit to be transferred to the account of the Income Tax Department in accordance with the provisions of Section 226 (4) of the Income tax

Act.

3. The first petition, Crl. M. P. No. 465 of 1965, has been filed for the return of the sum of Rs. 1,70 000 to the petitioner. The second petition Crl.

M. P. 466 of 1965 has been filed to direct the Sub-Magistrate, Mayuram, to retain in court custody the sum of Rs. 1,70,000. The last petition Crl.

M. P. No. 771 of 1965 has been filed to direct the Sub-Magistrate Mayuram, to get back the sum of Rs. 1,70,000 from the Income Tax

Department. I have already pointed out that the petitioner has admitted that the sum of Rs. 1,70,000 belonged to Mohamed Ibrahim and, in fact,

he filed a petition for the amount being paid over to the said Mohamed Ibrahim. The said Mohamed Ibrahim has consented to the amount being

transferred to the Income Tax Officer, Nagapattinam. Even without his consent, the lower Court was entitled to comply with the demand of the

Income Tax Officer u/s 226 (4) of the Income Tax Act. There is no ground to interfere with the order of the Sub-Magistrate regarding the disposal

of the amount by giving any of the directions sought for by the petitioner. The above criminal miscellaneous petitions are therefore dismissed.