
(2014) 11 MAD CK 0366

In the Madras High Court

Case No : Criminal Revision Case (MD) No. 434 of 2014

S. Venkateswaran

APPELLANT

Vs

The Sub-inspector of Police

RESPONDENT

Date of Decision : 05-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451, 457

Citation : (2014) 11 MAD CK 0366

Hon'ble Judges : R. Mala, J

Bench : Single Bench

Judgement

R. Mala, J.—Challenging the impugned order passed by the learned Judicial Magistrate No. VI, Madurai, in CrI.M.P.No. 4618 of 2014, dated 26.09.2014, dismissing the application filed under Sections 451 and 457 of Cr.P.C., the present revision has been filed.

2. At the time of admission, arguments were heard in length.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he is in possession of stolen properties under Section 3(a) of RP (UP) Act, 1966, as amended in the year 2012. At the time of investigation, a sum of Rs. 75,000/- has been recovered from the petitioner's shop along with two railway properties. Hence, he filed an application for return of the said amount, which was seized from his shop, as if it is the sale proceeds of the railway properties. The learned counsel would further submit that two items of the railway properties have been seized and there is no evidence to show that the amount of Rs. 75,000/- is the sale proceeds of the railway properties and that factum was not considered by the trial Court. Hence, he prayed for return of the amount of Rs. 75,000/-, which was seized from the shop of the petitioner.

4. To substantiate his argument, he relied upon a decision of this Court in S. Senthil Kumar, Erode Vs State [2006(1) T.N.L.R. 511(Mad)] and prayed for an order.

5. Resisting the same, the learned Government Advocate (Criminal side) would submit that the petitioner was arrayed as A-6 and he has been in possession of railway properties and A-1 to A-3 were stolen the railway properties and on their confession only, A-6 was implicated. The investigation is going on. It is premature to hand over the amount to the petitioner and at the time of trial only, it came to know that the amount seized from the petitioner is the sale proceeds of the railway properties or his personal amount. She would further submit that the trial Court has already deposited the amount in the bank and converted the amount kept in the Court as FDR and, therefore, no loss would be caused to the petitioner, if he was declared as innocent and prayed for dismissal.

6. On a perusal of the typed-set of papers, it is seen that a case in Crime No. 9 of 2014 has been registered against A-1 to A-3 and on the basis of the confession given by them, A-4 to A-7 have been implicated. Admittedly, two railway properties and also Rs. 75,000/- have been seized from the shop of the petitioner, who is A-6. The only argument of the learned counsel for the petitioner is that the amount of Rs. 75,000/- seized from his shop is not the sale proceeds of the railway properties and that is his personal amount. According to the learned Government Advocate (Criminal side), A-1 to A-3 have committed the theft of railway properties and on their confession only, A-4 to A-7 have been implicated and whether the amount of Rs. 75,000/- is the sale proceeds of the railway properties is the issue to be decided only during trial.

7. The learned counsel for the petitioner, in support of his contention, relied upon a decision of this Court in S. Senthil Kumar's case cited supra, wherein at paragraph Nos. 4 and 7, it was held as follows:

"4. The Honourable Supreme Court of India in Sunderbhai Ambalal Desai and C.M. Mudaliar Vs. State of Gujarat, , has held that even valuable articles and currency notes can be returned on stipulating certain conditions.

5.

6.

7. It will be unjust to keep the petitioner who is the owner of the money, waiting till the trial is over to receive the amount alleged to have been robbed from him. Therefore in the interest of the justice, the amount of Rs. 1,97,015/- (Rupees one lakh ninety-seven thousand and fifteen only) will have to be returned to the petitioner, of course, on certain conditions."

8. But the above citation is not applicable to the facts of the present case, because, in that case, the amount has been seized from the vehicle owned by the petitioner therein and he is not an accused. Therefore, the said case is not applicable to the facts of the present case.

9. In the case on hand, the petitioner is the sixth accused from whom two railway properties and Rs. 75,000/- have been seized and as per the confession of A-1 to A-3, he was implicated in the present case and in such circumstances, I

am of the view that whether the amount seized from the petitioner is the sale proceeds of the railway properties is the issue to be decided only at the time of trial. Therefore, the petitioner is not entitled to the interim custody of the amount seized from his shop.

10. At this juncture, the learned counsel for the petitioner wants an early disposal of the case in Crime No. 9 of 2014. Therefore, considering the facts and circumstances of the case, the respondent is directed to investigate the case in Crime No. 9 of 2014 and file the charge sheet, within a period of three months from the date of receipt of a copy of this order.

11. In the result, the Criminal Revision Case is dismissed, with the above direction.