

(2010) 04 KAR CK 0104

In the Karnataka High Court

Case No : Criminal Revision Petition No. 415 of 2010

Sri. K. Bramhananda Reddy @ Brahma

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 12-04-2010

Acts Referred:

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

Citation : (2010) 04 KAR CK 0104

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : C.R. Gopalaswamy and Associates, for the Appellant; Raja Subramanya Bhat, HCGP, for the Respondent

Final Decision : Allowed

Judgement

A.S. Pachhapure, J.—The petitioner has challenged the order dated 17.02.2010 rejecting the application filed by the petitioner u/s 451 and 457 Cr.P.C. for release of cash of Rs. 1,31,700/- and a mobile.

2. The facts reveals that on 19.08.2009 at 06:30 p.m. CWs-2 and 3 are the friends of CW-1, were near Om Shakthi temple at Bagepalli Town and the petitioner said to have gone there, where persons in two cars and a two wheeler attacked CW-2 and took him in his vehicle and demanded ransom of Rs. 15,00,000/-. The crime was registered. In the course of investigation, the police seized the car, mobile and cash of Rs. 1,31,700/- from the accuse (petitioner herein). The petitioner produced some documents to show the withdrawal of cash from the State Bank of India and requested for return of cash and also the mobile, the objections were filed by the state and after hearing, the application was rejected. Aggrieved by the said order this Revision stands preferred.

3. The Learned Counsel for the petitioner has confined his claim only for the release of the amount of cash of Rs. 1,31,700/-.

4. I have heard the learned Counsel for the petitioners and also learned High

Court Government Pleader.

5. The point that arises for my consideration is:

Whether the petitioner is entitled to the release of cash of Rs. 1,31,700/-?

6. CWs-2 and 3 are friends of CW-1, whereas CW-1 is the brother in-law of the petitioner and it appears to be family dispute between petitioner and CW-1, It is in such circumstances this incident has taken place.

7. The learned Counsel for the petitioner submitted that there is no dispute, so far as the seizer of the amount and also the identity of the cash seized during the investigation. He has Also produced some documents to show that he has withdrawn the cash from State Bank of India. When the fact of seizer is not in dispute and so also identity, I don't think that the order of the learned session judge rejecting the request for release of the cash is Just and proper. The Counsel for the petitioner submits that the memo will be filed in the trial Court not disputing the identity and seizer of the amount. The amounts seized are of the denomination of 130 notes of thousands and some notes of other denomination. In the circumstances, conditions can be imposed directing the retention of the xerox copies of the notes. In case if the amount is kept in custody it is of no use and when admittedly it has been seized from the custody of the petitioner. The said amount can be better used by him. So taking into consideration, these circumstances. I am of the opinion that the order passed by the learned Session Judge is enormous and illegal. Hence, I proceed to pass following.

ORDER

The petition is allowed in part.

The request of the petitioner for releasing the amount of Rs. 1,31,700/- is granted by setting aside the impugned order to that extent. The said amount shall be released in favour of the petitioner with the following conditions.

- i) That the petitioner shall keep the xerox copies of the notes in the Court at the time of release.
- ii) That the petitioner shall file a memo that he will not dispute the identity and the seizer of the notes.
- iii) He shall execute an indemnity bond for the amount seized. To produce that much of money in case if ultimately the order is passed under the provision of 432 of Cr.P.C.