

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

Present: E. Pravin Kumar, B.A.,B.L.,

Judicial Magistrate No.V, Madurai

Wednesday 16th day of December 2020

Crmp.No.1147/ 2020

Ramesh

S/o.Mudiyappan

...Petitioner/ Owner

vs

1. State rep. by Inspector of police,
S.S.Colony Crime Police Station,
Crime No.2421/2020
U/sec. 380 IPC

... Respondent/Complainant

2. Thiru.Joseph,
S/o. Rasu

...Accused/Respondent

For petitioner/accused: Mr.Sentamilan, BSc.,B.L.,Advocate

For Respondent/Complainant: Mrs.R.Thilagarani,M.L.,Grade II Assistant Public Prosecutor

16.12.2020

ORDER

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Redmi Cell Phone -two and Cash Rs.2,74,000/- (Rupees two lakhs Seventy four thousand only) remanded in R.P.R.No. 429/2020 as interim custody to the petitioner.

2. Notice issued and the prosecution has filed their reply.

3. The learned counsel for the petitioner would contend that the case property belonged to the petitioner. This petitioner is the defacto complainant. FIR was registered in Crime No.2421/2020 in the file of S.S.Colony crime Police Station, for offence U/sec. 380 IPC and now the property is said to have been seized by the police and handed over in court. The property mentioned in this petition is not involved in any way in this case. Further notice was issued to the accused in this case and he has stated no objection to return the property of the defacto complainant. Hence, the petitioner prays that this petition may be allowed.

4. On the other hand the prosecution stated that as per Io's report this petitioner is a defacto complainant. The above said amount Rs.2,74,000/- is important material object of this case and the no objection stated by the accused. If the money is returned to the petitioner he may not produced at the trial. And he may alienate the above said property. Hence prosecution strongly object to rreturn the money to the petitioner. The above said property is seized from the accused and imporatant material object of this case. Hence rposecution strongly object to return the property. Hence this petition may be dismissed.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence, and the petitioner is the defacto complainant of this case. Further the Hon'ble Supreme Court of India in the recent decision as reported in 2003(1) C.T.C page 175-Sundarbhai Ambalal Desai Vs.state of Gujarat has laid down certain guidelines to the Magistrates to hand over the properties at the pre-trial stage. Taking all the facts and circumstances of this case and guidelines issued by the Hon'ble Supreme Court of India it will be just and proper to hand over the property to the petitioner herein as interim custody. After all, the petitioner is going to hold the property in the capacity of a bailee or trustee.

6. In the result, the case property Viz for returning of the property viz Redmi CellPhone -2 and Cash Rs.2,74,000/- remanded in R.P.R.No. 429 /2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The number of the currency notes are to be entered in the RPR Register. The petitioner shall produce the photograph of the property and panchanama with the denominations and the number of currency notes shall be prepared.

2. The Petitioner/Owner has to execute bond for himself with one another surety for a sum of Rs.2,94,000/- each

.3.

3. The payment of Rs.2,74,000/- to be made to the petitioner herein is subject to the outcome of the result of the trial in this Crime No.2421/2020.
4. He shall produce the same as and when required in court.

Dictated by me to the Steno-typist and typed by her in computer directly and corrected and pronounced by me in open court on this 16th day of December 2020.

(S/d)E.Pravinkumar
Judicial Magistrate No. V,
Madurai.