

Valliammal Vs. the State Represented by the Inspector of Police and Another

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Court : Chennai

Decided On : Feb-16-1996

Reported in : 1997CriLJ2019

Judge : M. Karpagavinayagam, J.

Appeal No. : Cri. Revn. Case No. 422 of 1990 and Crl. M.P. No. 10819 of 1990

Appellant : Valliammal

Respondent : The State Represented by the Inspector of Police and Another

Advocate for Def. : N. Sankaravadivel, Adv.

Advocate for Pet/Ap. : A.A. Lawrance, Adv.

Judgement :

ORDER

1. The revision has been filed by the petitioner-Valliammal against the order passed in Crl. Appeal No. 50 of 1988 on the file of the 1st Additional Sessions Judge, Madras. Originally, the petitioner has filed an application in Crl.M.P. No. 1207/79 in C.C. No. 5669/78 on the file of the XV Metropolitan Magistrate, George Town, Madras, under Section 452 Cr.P.C. for return of M.O. 3 (series) alone (Rs. 4,500/-) to the petitioner. By mistake, the Magistrate has passed an order directing the complainant 2nd respondent to deposit all the M. Os. (MO. 1 to MO. 9) before the Court. Against this order the complainant/second respondent has filed an

appeal in Crl. Appeal No. 50 of 1988 on the file of the first Additional Sessions Judge, Madras, which was heard and held that the Magistrate need not insist for production of all the properties and it may direct for production of M.O. 3 (series) alone as prayed for by the petitioner. Against this order, the petitioner has filed this revision, stating that without hearing him and without any service of summon, the order has been passed and as such the order has to be set aside.

2. Heard both sides. The learned Additional Sessions Judge in his order has stated that the Magistrate has to conduct enquiry, to know as to whether, who is the person, to whom the properties have to be returned under Section 424 Cr.P.C. of course it is a fact that the complainant has already executed a bond and given undertaking before the Court to produce MO. 1 to MO. 9 as and when required. As a matter of fact in the petition in Crl.M.P. No. 1207 of 1979 which has been originally filed by the petitioner, the prayer was only for the deposit of MO. 3 (series), alone but the Magistrate, by mistake directed the complainant to deposit all the properties, that is, MO. 1 to MO. 9. Of course, the Magistrate has got powers to direct the complainant to produce and deposit all the properties, which have been returned to the complainant on security bond. But in the instant case, the prayer of the petitioner is only for the deposit of MO. 3 (series) alone. Whatever it may be for conducting enquiry under Section 452 Cr.P.C. it is not necessary that all the properties have to be produced before the Court and then conduct the enquiry. However, as per the direction of the 1st Additional Sessions Court, the second respondent has deposited MO. 3 (series) as requested in the prayer in Crl.M.P. No. 1207 of 1979 by the petitioner. So, there is nothing wrong or illegality in the order passed in the appeal. So I direct the XV Metropolitan Magistrate, George Town, Madras to conduct enquiry under Section 452 Cr.P.C. by giving opportunity to the necessary parties, and dispose of the same as early as possible. With this observation, the revision is dismissed. Consequently, no order is necessary in Crl.M.P. No. 10819/90.

3. Revision dismissed.