

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2015

CORAM

THE HON'BLE MR. JUSTICE S. MANIKUMAR

Criminal Revision Case No.1136 of 2014

K.Govindaraj

.. Petitioner

Vs.

1. State, rep., by
Inspector of Police,
Central Crime Branch Team,
Vepery, Chennai.

2. K.Thiagarajan

.. Respondents

Prayer:- Petition filed under Section 397 r/w. 401 of Cr.P.C, praying to set aside the order passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, made in CrI.M.P.No.7376 of 2013, dated 08.01.2014, in Crime No.460 of 2013, on the file of Inspector of Police, Central Crime Branch Team 4, Vepery, Chennai.

For Petitioner : Mr.S.Joel

For 1st Respondent : Mr.P.Govindarajan,
Addl. Public Prosecutor

For 2nd Respondent : Mr.T.S.Srinivasan

O R D E R

The case of the petitioner/defacto complainant is that promising to secure P.G. Medical seat, in Sri Ramachandra Medical College, Porur, Chennai, the 2nd respondent/accused received a sum of Rs.52,00,000/-. An advance amount of Rs.5,00,000/- was paid by him on 12.11.2011, through account No.3460000400135409 of Punjab National Bank, Lal Bazar Branch, to the 2nd respondent/accused's account, bearing No.11263372795 of State Bank of India, Thirukazhukundram. Thereafter, on 03.02.2012, he paid Rs.30,00,000/- through account No.130910100021222 of Andhra Bank and Rs.9,00,000/- through his aforesaid account of Punjab National Bank on 22.05.2012 and other balance amount was paid in cash.

2. It is the further case of the petitioner that admission was not secured and therefore, he sought for repayment, with interest.

The 2nd respondent/accused issued a post-dated cheque bearing No.565917, dated 01.10.2012, for Rs.44,00,000/- of State Bank of India, Thirukkazhukundram and requested him not to present the cheque for realisation. Thereafter, he paid a sum of Rs.8,00,000/- on 05.10.2012 and requested time till 10.10.2012, for presentation of the cheque. But the said cheque was returned for, "insufficiency of fund". When he contacted the 2nd respondent, he promised him to repay the amount, very soon. Thereafter, the 2nd respondent/accused paid Rs.4,00,000/- on 01.11.2012, Rs.5,00,000/- on 05.11.2012 and Rs.3,00,000/- on 22.01.2012 respectively. Thus, the 2nd respondent/accused repaid only Rs.20,00,000/-. Hence, the petitioner/defacto complainant has filed a complaint on 2011.2013 and the same was registered in Cr.No.460 of 2013, under Section 420 IPC.

3. The 2nd respondent/accused moved for bail in CrI.M.P.No.15555 of 2013. The Principal Sessions Court, Chennai, vide order, dated 28.11.2013, while enlarging the 2nd respondent/accused on bail, directed him to deposit Rs.12,00,000/- to the credit of Cr.No.460 of 2013. Other conditions have also been imposed.

4. Seeking return of deposit of Rs.12,00,000/-, the petitioner has filed CrI.M.P.No.7376 of 2013, on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai, under Section 451 Cr.P.C. Holding that the said application is not maintainable, the learned Metropolitan Magistrate has dismissed the same on 08.01.2014. Against the said order, the present revision has been filed.

5. Though the learned counsel for the petitioner has assailed the correctness of the order made in CrI.M.P.No.7376 of 2013, dated 08.01.2014, on the ground that the learned Magistrate has failed to consider that the defacto complainant has been given huge sum of money and that the petition under Section 451 Cr.P.C., is maintainable, this Court is not inclined to accept the said contention. Deposit of Rs.12,00,000/- is a condition imposed in the bail application, which has been complied with and that the same cannot be modified or altered by the learned Magistrate, by directing return of the said amount to the petitioner. For the reasons stated supra, this Court is not inclined to interfere with the impugned order.

6. Charge sheet is stated to have been filed in December, 2014 and that the case has been posted for arguments on 12.02.2015. According to him, the petitioner is a retired Major and now aged about 64 years. Considering his age and of the fact that charge sheet has already been filed, the trial Court is directed to expedite the trial and complete the same, in accordance with law, within a period of two months, from the date of receipt of a copy of this order.

7. In the result, the Criminal Revision Case is disposed of.
No costs.

Sd/-
Assistant Registrar
Dated:26.2.15

True Copy

Sub Assistant Registrar

To

1.The Inspector of Police,
Central Crime Branch, Team 4, Vepery, Chennai.

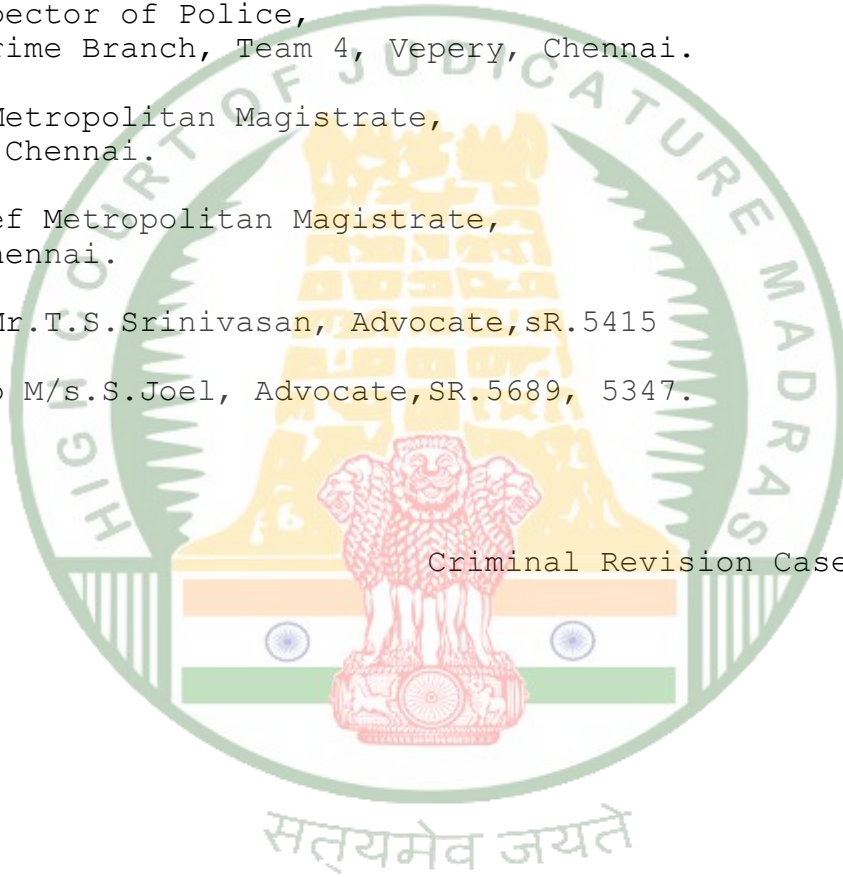
2.The XI Metropolitan Magistrate,
Saidapet, Chennai.

3.The Chief Metropolitan Magistrate,
Egmore, Chennai.

+1 cc to Mr.T.S.Srinivasan, Advocate,sR.5415

+2 cc's to M/s.S.Joel, Advocate,SR.5689, 5347.

rv(co)
krd 4/3



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