

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.VENUGOPAL

Crl.RC.No.180 of 2016

R.Subramaniam

... Petitioner/Petitioner/4th
Accused.

vs.

The State of Tamil Nadu

Rep by the Deputy Superintendent of Police,

EOW-II, Guindy, Chennai.

... Respondent/Respondent/
Complainant

Prayer :- Criminal Revision filed under Sections 397 and 401 of Cr.P.C. against the order dated 06.01.2016 made in Crl.MP.No.1814 of 2015 in Cr.No.5 of 2013 on the file of the Special Judge under TANPID Act, Chennai.

For Petitioner : M/s.Harshad P.Goklaney

For Respondent : Mr.V.Arul, GA (Crl.Side).

ORDER

The revision petitioner/A4 has preferred the instant criminal revision, as an agreed person as against the order dated 06.01.2016 made in Crl.MP.No.1814 of 2015 in Cr.No.5 of 2013 passed by the learned Special Judge under TANPID Act, Chennai.

2.The Trial Court while passing the impugned order dated 06.10.2016 in Crl.MP.No.1814 of 2015 in Cr.No.5 of 2013 at Paragraph 14 had observed the following:-

"14. In the result, this petition is allowed and the case property is ordered to be returned to the petitioner for interim custody subject to the following conditions.

- 1.The petitioner Mr.R.Subramanian, shall personally appear in the Court and execute a bond for a sum of Rs.4,00,000/- with two sureties each for like sum;
2. The photo copy of the Registration Certificate

shall be furnished in the Court;

3. The petitioner shall take the photograph of all the sides of the case property and produce the photographs in this Court after return of the case property within a week;
4. The petitioner shall give an undertaking that he would not sell or mortgage or alter the physical features of the vehicle in any manner;
5. The petitioner shall produce the case property as and when it required."

3. Being dissatisfied with the order dated 06.01.2016 in CrI.MP.No.1814 of 2015 in Cr.No.5 of 2013 passed by the trial Court, the petitioner/A4 has filed the instant Criminal Revision, basically contending that the order of the trial Court insofar as the condition requiring sureties for the return of the vehicle in question is against law, justice and equity.

4. The Learned counsel for the petitioner/A4 contends that the trial Court had failed to appreciate that the vehicle in question was purchased out of loan provided by the financial institution and therefore there should not be a condition that it was fascine of crime.

5. The Learned counsel for the petitioner takes a stand that the Court having decided to return the vehicle, it imposed conditions for which no reasons were assigned.

6. The Learned counsel for the petitioner/A4 brings it to the notice of this Court that imposing a condition relating to furnishing of sureties, almost of the value of the vehicle for each of them is burdensome, onerous and uncalled for one, when the vehicle is of nil value, it was wholly submerged in the floods.

7. In the instant case on hand, this Court has perused the contents of the impugned order dated 06.01.2016 in CrI.MP.No.1814 of 2015 in Cr.No.5 of 2013 passed by the Trial Court. It is quite evident from the impugned order that at paragraph 14 (1), the trial Court had imposed a condition by directing the petitioner to personally appear in the Court and execute a bond for a sum of Rs.4,00,000/- with two sureties each for like sum.

8. From the conditions imposed upon the petitioner/A4, this Court finds that he is dissatisfied with the impugned order at Para 14(1) whereby and where under he was directed to appear personally in the Court and execute a bond for a sum of Rs.4,00,000/- with two sureties each for like sum. Obviously, the petitioner feels that the imposition of clause (1) of the

condition in the impugned order to the effect that he shall appear in court and execute a bond for Rs.4,00,000/- with two sureties each for like sum is an onerous, burdensome, harsh and stressful one.

9.As such, this Court, without going into the merits of the matter and also not delving into the contents of the petition filed by the petitioner in CrI.MP.No.1814 of 2015 in Cr.No.5 of 2013 on the file of the trial Court, at this stage, in the interest of justice, equity, fair play, good conscience and even as a matter of prudence, simpliciter, directs the petitioner/A4 to approach the learned Special Judge under TANPID Act, Chennai, by filing necessary petition seeking modification/relaxation of the condition/(s) imposed, of course (in the manner known to law and in accordance with law) and air his grievances within a period of one week from the date of receipt of a copy of this order. If the said petition is filed before the trial Court, the trial Court is directed to take up the petition/application (if it is otherwise in order) and to dispose of the same within a period of 10 days thereafter, by affording enough opportunities to the petitioner and others concerned, by adhering to the principles of natural justice. It is needless for this Court to make a significant mention that the trial Court shall pass fresh orders in question in a dispassionate manner and not keeping in mind any of the observations made by this Court in the Criminal Revision Petition. Liberty is granted to the petitioner and the respondent/complainant to raise all factual and legal plea and the trial Court is to advert to each and every aspect/plea taken on behalf of the petitioner at the time of passing necessary orders.

10.With the aforesaid observations, the Criminal Revision Petition is disposed of.

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Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To

1. The Special Judge under TANPID Act, Chennai.
2. The Public Prosecutor, High Court, Madras.
3. The Deputy Superintendent of Police,
EOW II, Guindy, Chennai.

2 ccs to M/s.Prakash Goklaney, Advocate, sr.25544

CrI.RC.No.180 of 2016

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kra 11.05.2016