

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.22074 of 2016 & Cr.M.P. No.10247 of 2016

A. Mohammed Rabeek Petitioner

vs.

S. Doraian Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records in S.T.C. No.50 of 2015 on the file of the Judicial Magistrate Court No.1, Pollachi and quash the same insofar as the petitioner.

For petitioner Mr. C. Veeraraghavan

For respondent Mr. D.R. Arunkumar

ORDER

सत्यमेव जयते

This Criminal Original Petition has been filed seeking to call for the records in S.T.C. No.50 of 2015 on the file of the Judicial Magistrate Court No.1, Pollachi and quash the same insofar as the petitioner.

2 On 29.09.2016, this Court passed the following order:

"For the sake of convenience, the parties are referred to by their name.

2. One, S.Doraian has launched the prosecution in S.T.C.No.50 of 2014 against Mr.A.Mohamed Rabeek (the petitioner herein) u/s 138 of Negotiable Instruments Act, 1881 and the petition is now pending on the file of the Judicial Magistrate No.I, Pollachi.

3. While so, A.Mohamed Rabeek has approached this Court with the above petition for prosecution on the ground that A.Mohamed Rabeek is ready and willing to pay Rs.60,000/- (Rupees sixty thousand only) to S.Doraian (Complainant). The complainant is not receiving the amount, because, he is demanding more money.

4. In view of the undertaking, the petitioner is directed to deposit the cheque amount of Rs.60,000/- (Rupees sixty thousand only) to the credit of S.T.C.No.50 of 2014 before the Judicial Magistrate No.I, Pollachi, within a period of 4 weeks from the date of receipt of a copy of this order and report compliance to this Court.

5. Private Notice is permitted to the respondent. 6. There shall be an order of interim stay till then. Post on 03.11.2016 for reporting compliance."

3 After receipt of notice in this petition, Doraian entered appearance through Mr. D.R. Arun Kumar, learned counsel.

4 Pursuant to the order dated 29.09.2016, Mohammed Rabeek deposited Rs.60,000/- on 01.11.2016 before the Judicial Magistrate Court No.II, Pollachi. On 17.11.2016, the learned counsel for Doraian submitted that the cheque amount of Rs.60,000/- will not be sufficient as Doraian had spent some money for legal expenses, etc. Taking into consideration all these aspects, Mr. Veeraraghavan, learned counsel for Mohammed Rabeek submitted that Mohammed Rabeek is willing to pay Rs.15,000/- additionally, which was accepted by Mr. Arun Kumar, learned counsel for Doraian as full and final settlement for the impugned cheque alone and for quashing the prosecution in S.T.C.No.50 of 2015.

5 Therefore, on 17.11.2016, this Court directed Mohammed Rabeek to deposit a sum of Rs.15,000/- before the Trial Court on or before 29.11.2016.

6 Today, when the matter was taken up for hearing,

Mr.Veeraraghavan, learned counsel for Mohammed Rabeek submitted that the order dated 17.11.2016 passed by this Court was itself made ready only on 28.11.2016 and therefore, when Mohammed Rabeek went to the Trial Court on 30.11.2016, the Magistrate refused to receive the same.

7 In view of the above, this Court directs Mohammed Rabeek to deposit a sum of Rs.15,000/- before the Judicial Magistrate No.II, Pollachi to the credit of S.T.C. No.50 of 2015 within a period of two weeks from the date of receipt of a copy of this order. On such payment, the Doraian will be entitled to withdraw the entire amount (Rs.60,000/- + Rs.15,000/- = Rs.75,000/-). On such deposit, the Judicial Magistrate No.II, Pollachi, shall dismiss S.T.C. No.50 of 2015.

With the above direction, this Criminal Original Petition is closed. Connected Crl.M.P. is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1 The Judicial Magistrate No.II
Pollachi
- 2 do thro the Chief Judicial Magistrate,
Coimbatore.
- 3 The Public Prosecutor,
Madras High Court,
Chennai 600 104.

+1cc to D.R.Arun Kumar, Advocate SR.No.71711

+1cc To C.Veeraragahavan, Advocate SR.No.71498

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SDR 29.12.2016