



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Sixth day of July Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP (MD) Nos.10874 & 18073 of 2016

L.PRABHAKAR

..PETITIONER/ACCUSED No.1
IN BOTH THE CRL.OP'S

Vs.

STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
TUTICORIN.

CR NO.34/2015 IN CRL OP (MD) No.10874/2016

CR NO.36/2015 IN CRL OP (MD) No.10873/2016 ..RESPONDENT/COMPLAINANT
IN BOTH THE CRL.PO'S

M/S.SHADIRAM AND SONS,
THROUGH ITS MANAGER,
DESHRAJ SHARMA.

..INTERVENOR IN CRL.MP (MD) No.5477/2016
IN CRL.OP (MD) No.10874/2016

M/S.SRS EXPORTS PVT., LTD.,
THROUGH THEIR ASSISTANT MANAGER,
M.KUTRALAM.

..INTERVENOR IN CRL.MP (MD) No.5479/2016
IN CRL.OP (MD) No.10873/2016

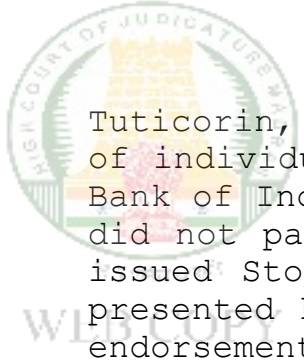
For Petitioner : M/S.V.PRAKASH, Senior Counsel
for M/s.G.PRABAHARI Advocate in both the petitions
For Respondent : Mr.P.KANNITHEVAN, Government Advocate (Crl.Side)
in both the petitions
For Intervenor : Mr.D.JEGADISH CHANDIRA, Advocate
in both the petitions

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/Accused No.1 was arrested and remanded to judicial custody on 05.05.2016, for the alleged offences punishable under Sections 406, 409 and 420 of I.P.C., in Crime Nos.34 and 36 of 2015 on the file of the respondent police and hence, seeks bail.

2. The case of the prosecution is that both the *de-facto* complainants are sister concern. The petitioner is the Managing Director of M/s.Shanmugam Traders Private Limited, Tuticorin. The said Company purchased goods from the *de-facto* complainants on credit basis and issued cheques for the total value of the goods purchased by them. The said Company stored the purchased goods in 13 individual names, who are the family members of the petitioner in Tamil Nadu Ware Housing Corporation, situated at Milavittan,



Tuticorin, and obtained Negotiable Warehousing Receipts in the name of individuals. They pledged the goods with Industrial Development Bank of India [in short "IDBI"], Tuticorin and borrowed money. They did not pay the amounts to the *de-facto* complainants. The Company issued Stop Payment Letter to the Bank and when the cheques were presented by the *de-facto* complainants, they were returned with an endorsement "stopped payment". On complaint, cases have been registered for the offences stated above.

3. Earlier the petitioner has filed CrI.O.P.(MD)Nos.8491 and 8474 of 2016, for enlarging him on bail. This Court, by order dated 14.06.2016, after considering the case on merits, dismissed both the Criminal Original Petitions filed by the petitioner. Now, the petitioner has come out with the present petitions for enlarging him on bail.

4. Today, when the matter is taken up for hearing, the learned Senior Counsel appearing for the petitioner and the learned counsel for the Intervenor submitted that the petitioner and the *de-facto* complainant have entered into a compromise and the petitioner has agreed to settle the matter amicably and they have filed a Memorandum of Understanding, dated 05.07.2016 and also filed a Joint Memo, dated 06.07.2016 to that effect. The learned Senior Counsel for the petitioner and the learned counsel for the Intervenor submitted that the properties worth about Rs.3 Crores and 25 Lakhs have been transferred in the name of the *de-facto* complainant.

5. The Memorandum of Understanding, dated 05.07.2016 and the Joint Memo, dated 06.07.2016 are taken on record.

6. In view of the submissions made by the learned Senior Counsel appearing for the petitioner and the learned counsel for the Intervenor that the matter will be settled between the parties in terms of the Memorandum of Understanding, dated 05.07.2016 and the Joint Memo, dated 06.07.2016 and also the fact that the petitioner is in judicial custody from 05.05.2016, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

- (i) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Tuticorin;
- (ii) the petitioner shall report before the respondent police daily at 10.00 a.m., until further orders;
- (iii) the petitioner shall not tamper with evidence or witness either during investigation or trial;

- (iv) the petitioner shall not abscond either during investigation or trial;



(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

7. The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioner is complying with the conditions or not.

sd/-
06/07/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, THOOTHUKUDI.
- 2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,THOOTHUKUDI.
- 3 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- 4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, TUTICORIN.
- 5 THE OFFICER-IN-CHARGE, SUB JAIL, SRIVAIKUNDAM,
THOOTHUKUDI DISTRICT.

+2. CC to M/S G.PRABAHARI Advocate SR.No.35193 & 35194

ORDER IN
CRL OP(MD)Nos.10874 & 10873 of 2016
Date :06/07/2016

PBK/NGM-SK/SAR-II 06/07/2016 ::3P-8C:: (IT)