



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.14340 of 2017

WEB COPY

Dr.T.Prem,
Proprietor, M/s.Boby Traders.

... Petitioner

-Vs.-

1.The State of Tamil Nadu,
Represented by the Superintendent of Police,
Nagarcoil,
Kanyakumari District.

2.The Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.

3.The Inspector of Police,
Economic offence Wing-II,
Nagercoil,
Kanyakumari District.

...Respondents

(R-3 impleaded as per order of this Court
made in Crl.M.P.(MD)No.9898 of 2017 in
Crl.O.P.(MD)No.14340 of 2017 dated 09.11.2017 by SSSRJ.)

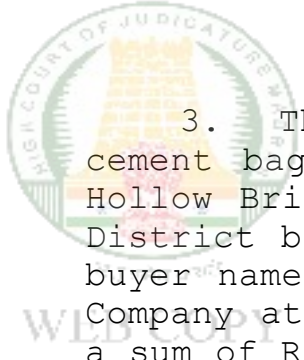
PRAYER: Criminal Original petition - filed under Section 482 of Criminal Procedure Code, to pass appropriate order directing the respondents to accord police protection to take back 1680 bags of cement lying in the brick klin of Mr.Sunil Kumar, M/s.Nirmal Krishna Hollow Bricks Company, Pazhugal, Vilavancode Taluk, Kanyakumari District.

For Petitioner	: Mr.C.K.M.Appaji
For Respondents	: Mr.K.S. Durai Pandian, Additional Public Prosecutor.

O R D E R

This petition has been filed for a direction to the respondents to accord police protection to take back 1680 bags of cement lying in the brick Klin of one Sunil Kumar, who is running business in the name and style of M/s.Nirmal Krishna Hollow Bricks Company, Pazhugal, Vilavancode Taluk, Kanyakumari District.

<https://hcservices.courts.gov.in/hcservices/> It is stated that the petitioner is a cement stockist and running business in the name and style of Boby Traders at Swamiyarmadam, Kanyakumari District.



3. The petitioner further states that he has supplied 1068 cement bags to the value of Rs.5,36,592/- to M/s.Nirmal Krishna Hollow Bricks Company at Pazhugal, Vilavancode Taluk, Kanyakumari District by invoices dated 01.08.2017 and 02.08.2017. Though the buyer namely the manufacturer of M/s.Nirmal Krishna Hollow Bricks Company at Pazhugal, Vilavancode Taluk, Kanyakumari District paid a sum of Rs.1,00,000/- (Rupees One Lakh only), it is stated by the petitioner that a sum of Rs.4,36,592/- is yet to be paid to the petitioner. It appears that the owner of the hollow brick unit was also running a chit fund business and that he could not settle the dues to subscribers due to some financial crisis.

4. It was further stated that complaints had been lodged against the manufacturer of hollow brick stating that he has siphoned of the chit amount and cheated several subscribers. It is stated that all the cement bags are still in the premises of M/s.Nirmal Krishna Hollow Bricks Company at Pazhugal, Vilavancode Taluk, Kanyakumari District. When the petitioner approached Mr.Sunil Kumar, it is stated that he requested the petitioner to take back the cement bags. The petitioner could not take the cement bags supplied by him because of obstruction by form of the complaints.

5. It is in the said circumstances the petitioner has come forward with this petition to take back all cement bags, which were supplied by him to the individual. Strictly speaking once the petitioner supplied the goods, he lost his ownership from the date of purchase of the goods.

6. It is not in dispute that the petitioner has given delivery of goods. The petitioner has not realised the amount, which is due to him towards value of the goods. However, the fact remains that the value of the cement bags will be reduced if the petitioner or anyone is not able to use it within a reasonable time. Otherwise, the value of cement bags which is worth for the money due to him today will deteriorate. It is likely that after some time, the value of the cement bags will be completely lost and there is no other way to make use of spoiled cement for any other purposes.

7. In the circumstances, the learned counsel for the petitioner undertakes that the petitioner is prepared to give a security bond matching to the value of the cement bags, which are now lying in the premises of M/s.Nirmal Krishna Hollow Bricks Company at Pazhugal, Vilavancode Taluk, Kanyakumari District.

8. Considering the nature of grievance expressed by the petitioner and to preserve the value of the goods, this Court is directed to permit the petitioner to take back 1068 cement bags, which are lying in the office of Mr.Sunilkumar, who is carrying



the business in the name and style of M/s.Nirmal Krishna Hollow Bricks Company at Pazhugal, Vilavancode Taluk, Kanyakumari District upon furnishing a security bond for the value of the goods. Apart from security bond, it is further undertaken by the petitioner that he will not misappropriate the money in case his claim is rejected later by the respondent or by any appropriate forum, which may deal with this issue in future. The second respondent also, if necessary, shall provide police protection to the petitioner for the removal of cement bags from the premises of brick company.

9. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The State of Tamil Nadu,
Represented by the Superintendent of Police,
Nagarcoil,
Kanyakumari District.
- 2.The Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.
- 3.The Inspector of Police,
Economic offence Wing-II,
Nagercoil,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.C.K.M.Appaji, Advocate SR.No. 91591

CRL.O.P. (MD) No.14340 of 2017
07.12.2017

sm

JM/GT/SAR 1/31.01.2018/3P/6C