

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.4598 of 2018

1.Arun Kumar
2.V.P.Natesan
3.R.Kanagaraj
4.Balasubramaniam
5.A.Gunasekaran ... Petitioners

Vs

1.The State rep. by
Inspector of Police
Belukurichi Police Station
Namakkal District.1st Respondent/Complainant

2.P.Duraimurugan2nd Respondent/Defacto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 2nd respondent to re-deposit the amount of Rs.10,50,000/- in the Judicial Magistrate Court, Rasipuram in STC No.28 of 2015 and in Cr.No.275 of 2014 on the file of the first respondent and on such deposit, the petitioners may be permitted to withdraw the said amount as well as the amount of Rs.3,00,000/- already deposited in the Judicial Magistrate Court, Rasipuram, to the credit of STC No.28 of 2015 and in Cr.No.275 of 2014.

For Petitioner : Mr.D.Vairamoorthy
for Mr.R.Anbukarasu

For R1 : Mr.C.Iyyapparaj
Additional Public Prosecutor

For R2 : Mr.S.Senthil

O R D E R

This petition has been filed to direct the 2nd respondent to re-deposit the amount of Rs.10,50,000/- in the Judicial Magistrate Court, Rasipuram in STC No.28 of 2015 in Cr.No.275 of 2014 on the file of the first respondent and on such deposit, permit the petitioners to withdraw the said amount as well as

the amount of Rs.3,00,000/- already deposited in the Judicial Magistrate Court, Rasipuram, to the credit of STC No.28 of 2015 and in Cr.No.275 of 2014.

2. On the complaint lodged by the second respondent, the first respondent police registered a case in Cr.No.275 of 2014 under Sections 147, 120-B, 447, 436, 506(i), 109 IPC r/w 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act against nine accused, including the petitioners herein. The petitioners filed application for anticipatory bail, in which, this Court had directed them to deposit various amounts with a further direction that the amounts should be paid to the de facto complainant as interim compensation. Accordingly, the petitioners have deposited the said amounts and they were granted anticipatory bail.

3. After completing the investigation in Cr.No.275 of 2014, the first respondent filed a final report before the jurisdictional Magistrate and the case was committed to the Court of Sessions in S.C.No.62 of 2016. After full fledged trial, all the accused, including the petitioners were acquitted by the Additional District and Sessions Judge, Namakkal in S.C.No.62 of 2016 on 08.09.2017. While so, the petitioners have filed the present application for a direction to the de facto complainant to refund the amounts that were collected by him pursuant to the order passed by this Court in the anticipatory bail application.

4. On notice, Mr.S.Senthil, learned counsel has entered appearance for the de facto complainant. The de facto complainant has filed an undertaking affidavit dated 30.07.2018, duly notarised, wherein, he has stated as follows:

"6. I humbly state that the Cr.No.275 of 2019 was investigated by the 1st respondent herein, charge sheet was filed against this petitioners and others and taken on file in S.C.No.62 of 2016 by the learned Additional District Judge, Namakkal, trial was conducted and these petitioners along with other accused were acquitted vide order dated 08.09.2017. The prosecution and myself have not preferred any appeal over the acquittal order and limitation for filing the appeal also has expired.

7. I humbly state that henceforth the petitioners have filed this Crl.O.P.No.4598 of 2018, directing me to re-deposit Rs.10,50,000/- which I withdrew from the account pertaining to Cr.No.275/14 and also to withdraw the remaining Rs.3,00,000/- from the above account.

8. I humbly state that I am hereby willing to re-deposit a sum of Rs.10,50,000/- within 8 weeks which I withdrew from the account pertaining to Cr.No.275/14 and also I have 'No Objection' to withdraw the remaining amount of Rs.3,00,000/- lying in the above account, since, the Hon'ble Additional District Judge, Namakkal has acquitted the petitioners herein and also I have not preferred any Appeal within time and also I am not willing to file any Appeal in future against the acquittal order dated 8.9.2017.

Hence, it is therefore humbly stated that, this affidavit may be treated as my willingness and consent to re-deposit Rs.10,50,000/- to be account pertaining to Cr.No.275/2014 on the file of the respondent police within 8 weeks and thus render justice."

5. In view of the above, eight weeks time is granted to the de facto complainant from the date of receipt of a copy of this order to re-deposit Rs.10,50,000/- before the Judicial Magistrate, Rasipuram and on such deposit, the Magistrate is directed to disburse the amounts deposited by the petitioners. The sum of Rs.3,00,000/- that has been deposited by Arun Kumar [A2] shall also be disbursed to him.

With the above direction, this petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

gms
To

1.The Judicial Magistrate,
Rasipuram.

2.The Inspector of Police
Belukurichi Police Station
Namakkal District.

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3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Senthil, Advocate Sr.54130

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srg 21/08/2018



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