

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM:

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

Crl.O.P. No.26233 of 2017

Freight Systems India Pvt. Ltd.
Super A7 Thiru Vi Ka Industrial Estate
Guindy
Chennai 600 032
represented by its Authorised Signatory
S. Naveen

Petitioner

vs.

1 Prashanth Gangadhar
2 The State represented by
the Inspector of Police
J-3 Guindy Police Station
Chennai

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to permit the petitioner to withdraw the deposited
amount of Rs.35,61,912/- (Rupees Thirty Five Lakhs Sixty One
Thousand Nine Hundred and Twelve only) made to the credit of Cr.
No.1188 of 2017.

For petitioner Mr. Sunder Mohan

For R1 Mr. C. Palanichamy

For R2 Mrs. Kritika Kamal P.
Govt. Adv. (Crl. Side)

ORDER

This Criminal Original Petition has been preferred seeking
to permit the petitioner to withdraw the deposited amount of
Rs.35,61,912/- (Rupees Thirty Five Lakhs Sixty One Thousand Nine
Hundred and Twelve only) made to the credit of Cr. No.1188 of
2017.

2 The de facto complainant is the petitioner in this case. It is the case of the de facto complainant that they were engaged by the first accused/first respondent as Freight Forwarding Agents for clearing the consignment of Electrically Gas Calcined Anthracite Coal imported from China and after engaging the de facto complainant, the accused took delivery of the goods in connivance with the Customs House Agent without even submitting the original Bills of Lading and thereby caused huge loss to the de facto complainant, on account of which, the de facto complainant has lost a sum of about Rs.35 lakhs. The accused was arrested by the police and while granting bail, this Court had directed the accused to deposit a sum of Rs.35,61,912/- and the same has been deposited by the accused. Under such circumstances, the de facto complainant has filed the present petition for a direction permitting them to withdraw the amount.

3 Heard Mr. Sunder Mohan, learned counsel for the de facto complainant and Mr. A. Natarajan, learned Senior Counsel appearing for the first respondent/accused.

4 Mr. Sunder Mohan, learned counsel for the de facto complainant submitted that since a sum of Rs.35 lakhs is the sum admitted by the accused that is payable to the de facto complainant, the same may be permitted to be withdrawn by the petitioner.

5 Per contra, Mr. A. Natarajan, learned Senior Counsel appearing for the accused contended that the said sum was deposited not as an admitted amount, but, as a disputed amount and the same was deposited in compliance with the bail order and not as admitted amount and therefore, the first respondent/accused has a serious objection in the de facto complainant withdrawing the money.

6 This Court gave its anxious consideration to the rival submissions.

7 Today, this Court has dismissed as withdrawn the quash application in Crl.O.P. No.9308 of 2017 preferred by the accused. Further, when the case is at the stage of investigation, it is too early to decide as to who would be entitled to the sum of Rs.35 lakhs. Had there been a compromise between the parties, then, the situation would be different.

With the above observation, this Criminal Original Petition stands closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

cad

To

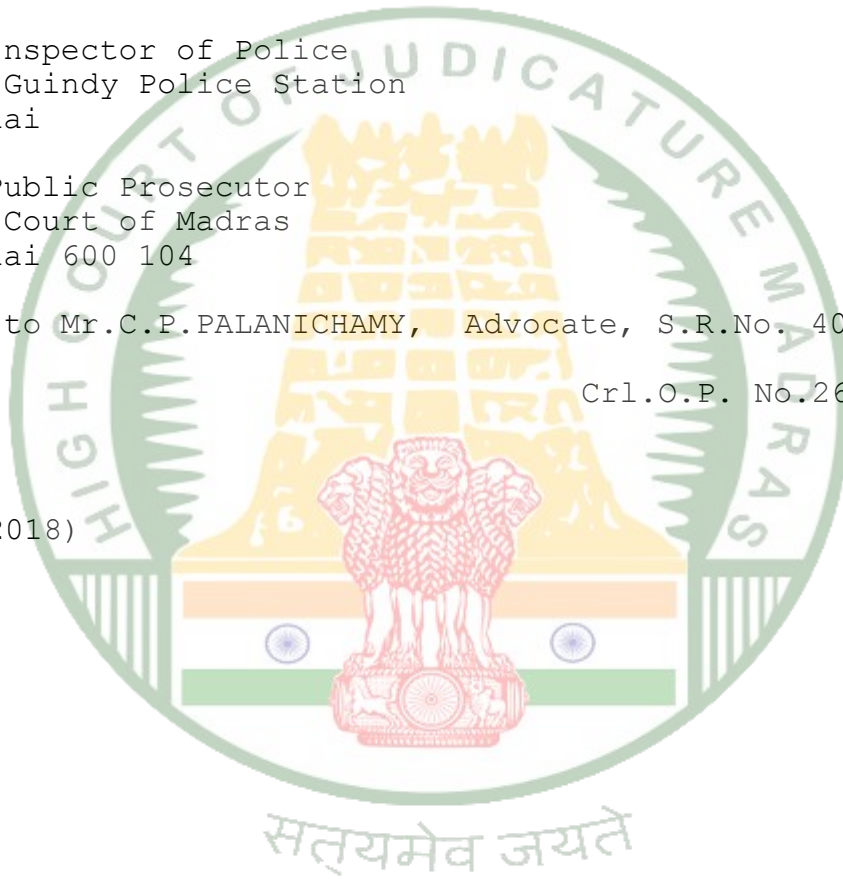
1 The Inspector of Police
J-3, Guindy Police Station
Chennai

2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.C.P.PALANICHAMY, Advocate, S.R.No. 40667

Cr1.O.P. No.26233 of 2017

KJI (CO)
TR(05/07/2018)



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