



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2018

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THE HONOURABLE MR.JUSTICE P.RAJAMANICKAMCrl.O.P.(MD) No.17199 of 2017

1.Vijayakumar

2.Rajesh

...Petitioners

Vs.

The Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District.
(Crime No.16 of 2008)

...Respondent

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate No.II, Kovilpatti in unnumbered Cr.M.P.No...of 2015 dated 15.12.2015 by allowing this Criminal Original Petition and direct the learned Judicial Magistrate No.II, Kovilpatti to refund the amount of Rs.1 Lakh to the first petitioner herein which was deposited by the petitioner to the credit of Cr.No.16 of 2008 on the file of the respondent police.

For Petitioners

: Mr.G.Thalaimutharasu

For Respondent

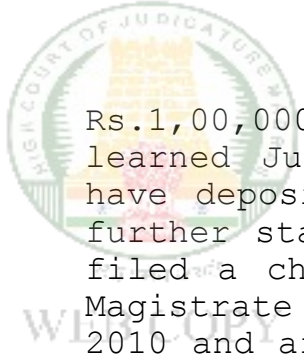
: Mr.K.Anbarasan

Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed by the petitioners to set aside the order passed by the learned Judicial Magistrate No.II, Kovilpatti in an unnumbered Cr.M.P.No...of 2015 dated 15.12.2015, by allowing this Criminal Original Petition and direct the learned Judicial Magistrate No.II, Kovilpatti to refund the amount of Rs.1,00,000/- to the first petitioners, which was deposited by the petitioner to the credit of Cr.No.16 of 2008 on the file of the respondent police.

2.The learned counsel for the petitioners submitted that the respondent police has registered a case in Cr.No.16 of 2008 as against the petitioners and hence the petitioners have filed M.P. (MD) No.2 of 2008 in Crl.O.P.(MD) No.4090 of 2008 before this Court seeking to modify the order passed by this Court in Crl.O.P.(MD) No.4090 of 2008 dated 17.04.2008 and this Court has modified the said order and directed the petitioners to deposit a sum of



Rs.1,00,000/- to the credit of Cr.No.69 of 2008 on the file of the learned Judicial Magistrate No.II, Kovilpatti. Accordingly, they have deposited the said amount before the said Magistrate. It is further stated that the respondent police, after investigation, has filed a charge sheet and based on the same the learned Judicial Magistrate No.II, Kovilpatti has taken the case in C.C.No.383 of 2010 and after full trial acquitted the petitioners by the judgment dated 02.12.2011. He further submitted that after the disposal of the aforesaid case the petitioners have filed a petition before the learned Judicial Magistrate No.II, Kovilpatti for refund of the aforesaid amount, but the learned Judicial Magistrate has directed the petitioners to obtain appropriate orders from this Court.

3.The learned Government Advocate (Crl.Side) appearing for the respondent has fairly conceded that the case, which was filed against the petitioners had been ended in acquittal and challenging the same, the Government has not filed any appeal. Further, he has stated that there is no proposal for filing any appeal in future.

4.It appears that the first petitioner alone has filed an affidavit before the learned Judicial Magistrate and hence, this Court has directed the second petitioner also to file an affidavit. Accordingly, the second petitioner has filed an affidavit today seeking to refund the said amount. Since the petitioners have deposited the amount of Rs.1,00,000/- as per the order passed by this Court in M.P.(MD) No.2 of 2008 in Crl.O.P.(MD) No.4090 of 2008 and subsequently, the criminal case ended in acquittal, the petitioners are entitled to get back the aforesaid amount.

5.In view of the above, this Criminal Original Petition is allowed and the learned Judicial Magistrate No.II, Kovilpatti, is directed to refund the amount of Rs.1,00,000/- to the petitioners which was deposited by them as per the order passed by this Court dated 21.11.2008 in M.P.(MD) No.2 of 2008 in Crl.O.P.(MD) No.4090 of 2008.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.II, Kovilpatti

2.The Inspector of Police,

Ettayapuram Police Station, Thoothukudi District.

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+One cc to M/s.G.Thalaimutharasu, Advocate, SR.No.40549

mm

RL/5C/2P/SKN/RSK/SAR1/25/1/2018

Crl.O.P.(MD) No.17199 of 2017