



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.R.C.(MD).No.484 of 2018

M/s.True Logistics Pvt. Ltd.,
Chief Executive Officer,
P.Hemachandra Babu,
Gayathri Lake Front,
No.118, Ring Road,
Hebbal, Bengaluru.

...Petitioner/De facto Complainant

Vs.

1.The State Represented by
The Inspector of Police,
Central Crime Branch, Madurai. ... Respondent / Complainant
(Crime No.17 of 2018)

2.S.Ramadass ... Respondent / Accused

Prayer: Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, praying to call for the records pertaining to Crl.M.P.No.1988 of 2018 in Crime No.17 of 2018 on the file of the Judicial Magistrate No.1, Madurai, dated 06.08.2018 and set aside the same and consequently allow Crl.M.P.No.1988 of 2018 by allowing this petitioner to withdraw the amount Rs.10,00,000/- deposited by the second respondent.

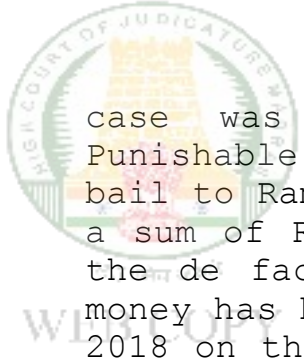
For Petitioner: Mr.K.P.S.Palanivel Rajan
For R-1 : Mr.A.Robinson
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case is filed praying to modify the order dated in Crl.M.P.No.1988 of 2018 in Crime No.17 of 2018 on the file of the Judicial Magistrate No.1, Madurai, dated 06.08.2018 allowing the petitioner to withdraw the amount Rs.10,00,000/- deposited by the second respondent on condition to execute solvency certificate for Rs.10,00,000/- [Rupees Ten Lakhs only] each by the petitioner and the surety.

2. Heard the learned counsel for the revision petitioner and the learned Additional Public Prosecutor for the first respondent.

3. Based on the complaint by M/s.True Logistics (P) Ltd., a



case was registered against one Ramadass for the offence Punishable under Sections 406 and 420 IPC. This Court has granted bail to Ramadass (Accused) on his undertaking that he will deposit a sum of Rs.10,00,000/-. Further this Court has given liberty to the de facto complainant to withdraw the same. Accordingly, the money has been deposited in the Central Crime Branch Crime No.17 of 2018 on the file of the first respondent herein. Aggrieved by the liberty given to the de facto complainant to withdraw the money, the accused / Ramadass has approached the Hon'ble Supreme Court, so that the money deposited by him should not be withdrawn by the de facto complainant. However, while dismissing his Special Leave Petition, the Hon'ble Supreme Court has permitted the Court concerned to allow the application of the de facto complainant to withdraw the money with a direction that the de facto complainant shall offer security to withdraw the amount. Based on this, one Hemachandra Babu, Chief Executive Officer of M/s.True Logistics Pvt. Ltd., has filed a petition to withdraw the amount. The Trial Court has rightly pointed out that Hemachandra Babu has filed the petition not as representative of the M/s.True Logistics Pvt. Ltd. However, the Trial Court allowed his petition and imposed a condition that the petitioner shall file solvency certificate duly signed by the Tahsildar for a sum of Rs.10,00,000/- with one surety for a like sum of Rs.10,00,000/- with solvency from concerned Tahsildar. Aggrieved over the condition to furnish two solvency certificates each for Rs.10,00,000/-, the petitioner is before this Court.

4. In this revision petition, the petitioner would contend that while his company is ready to offer solvency certificate for a sum of Rs.10,00,000/- for withdrawing the money deposited in the trial Court, additional solvency of Rs.10,00,000/- to be executed by the sureties is needless and superfluous. For withdrawing Rs.10,00,000/-, the petitioner / Company need not be mulcted with a burden of furnishing solvency of Rs.10,00,000/- by the petitioner and additional solvency of Rs.10,00,000/- by the sureties, totally Rs.20,00,000/-.

5. This Court finds some force in the submission. Bank guarantee for Rs.10,00,000/- by the petitioner Company to permit him to withdraw equal sum of money deposited by the accused is sufficient. Besides, he shall also give an undertaking that the money withdrawn by him will be subject to the outcome of the criminal complaint.

6. The trial Court shall permit M/s.True Logistics Pvt. Ltd., to withdraw Rs.10,00,000/- [Rupees Ten Lakhs only] deposited by the accused Ramadass on executing bank guarantee for a sum of Rs.10,00,000/-. With the above modification, the trial Court is at liberty to impose any other condition deem fit and proper.



7. Accordingly, this Criminal Revision Case is disposed of with the above directions.

Sd/-

Assistant Registrar (RTI)

For Being Mentioned

This petition having been posted on 4/9/2018 for Being Mentioned in pursuance to the order of this Court dated 23/8/18 and made herein in the presence of the above said Advocate, this Court made the following order:-

This matter is listed today under the caption 'for being mentioned', at the instance of the learned counsel for the petitioner.

2.The learned counsel for the petitioner sought leave of this Court to mention regarding the order passed by this Court in CrI.R.C(MD).No.484 of 2018 on 23.08.2018. The learned counsel sought modification of the condition with respect to furnishing of bank guarantee for Rs.10,00,000/- (Rupees Ten Lakhs only) to withdraw the money deposited by the respondent/accused. According to the petitioner, instead of bank guarantee, solvency certificate to an extent of Rs.10,00,000/- may be ordered.

3.This Court is not inclined to entertain this request with regard to solvency certificate. In case of any breach, enforcing the solvency may be difficult for this Court. Whereas, if bank guarantee is given by the petitioner, without much difficulty, this Court can invoke the bank guarantee to be given by the petitioner herein.

/True Copy/

Sub Assistant Registrar(CS-I)

To

To be substituted in the order dated 23.08.2018 already despatched on 24.08.2018

- 1.The Judicial Magistrate No.I,
Madurai.
- 2.The Inspector of Police,
Central Crime Branch, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.K.P.S.Palanivelrajan, Advocate in SR.No.79693.

SM

DS/RSK/SAR-1 :24.08.2018: 3P/5C

BU/SKN/SAR-I : 27.09.2018 : 3P/5C