



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2018

CORAM

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.2234 of 2013

and

M.P.(MD)No.1 of 2013

S.Muthuraman ... Petitioner/Petitioner /Accused

Vs.

1.The State Represented by,
The Inspector of Police,
Seithur Police Station,
Virudhunagar District.
(Crime No.9 of 2013) ... 1st Respondent/Respondent/Complainant

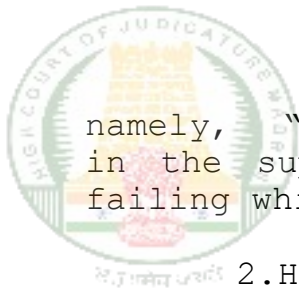
2.K.Raja,
Managing Director,
M/s. Pommys Garments (India) Pvt. Ltd.,
Pommys Nagar, Seithur Road,
Thalavaipuram,
Virudhunagar District.
(R.2 is impleaded as per the order
of this Honourable Court, dated
14.03.2013 made in M.P.(MD)No.2
of 2013 in Crl.O.P.(MD)No.
2234 of 2013) ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Principal Sessions Judge, Srivilliputhur, Virudhunagar District in Cr.M.P.No.356 of 2013 vide his order dated 21.01.2013 in so far as it relates to the condition namely "the petitioner is directed to supply generator specified in the supply order to the complainant on or before 15.02.2013 failing which the bail granted shall stand cancelled".

For Petitioner	: Mr.R.Anand
For R.1	: Mr.A.Robinson
	Government Advocate (Crl.Side)
For R.2	: No appearance

O R D E R

This Criminal Original Petition is filed to set aside the order passed by the learned Principal Sessions Judge, Srivilliputhur, Virudhunagar District in Cr.M.P.No.356 of 2013 vide his order dated 21.01.2013, insofar as it relates to the condition,



namely, "the petitioner is directed to supply generator specified in the supply order to the complainant on or before 15.02.2013 failing which the bail granted shall stand cancelled".

2. Heard both sides.

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3. The petitioner herein is the accused in Crime No.9 of 2013 registered under Sections 406, 420, 294(b) and 506(i) I.P.C. on the file of the Inspector of Police, Seithur Police Station, Virudhunagar District.

4. The dispute between the petitioner and the de-facto complainant averred by the prosecution is that the de-facto complainant is the one of the owners of the Pommys Garments (India) Pvt. Ltd., Thalavaipuram, Virudhunagar District and he has placed order with the accused, who is the agent of the leading generator manufacturing company, and even after receiving a sum of Rs.4,80,000/-, the petitioner being the dealer of the generator had not supplied the generator as agreed, for which, the above said case was registered. As of now, it is posted for examination of witnesses.

5. On careful consideration of the factual aspects, the real issue between the petitioner and the de-facto complainant is nothing but whether the petitioner is entitled to give generator as alleged by the de-facto complainant. The answer will sort out only by way of trial. But at the time of granting bail, the learned Principal Sessions Judge, Srivilliputhur, Virudhunagar District, has directed this petitioner to hand over the generator to the de-facto complainant as one of the conditions for execute the bail bond.

6. Considering the real issue involved in this case, the condition imposed by the learned Principal Sessions Judge, Srivilliputhur, Virudhunagar District is nothing but one of the issues. So, if the order passed by the Principal Sessions Judge, Srivilliputhur, Virudhunagar District is complied with, the real issue involved between the petitioner and the de-facto complainant has not been sort out. So, the prayer sought by the petitioner is justifiable.

7. In the result, this petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar



To

1. The Principal Sessions Judge,
Virudhunagar District at Srivilliputhur.

2. The Judicial Magistrate, Rajapalayam.

3. The Inspector of Police,
Seithur Police Station,
Virudhunagar District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD) No. 2234 of 2013
22.01.2018

TM/GSP

JM/GT/SAR 2/08.02.2018/3P/5C