

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

CrI.O.P.No.148 of 2019
and
CrI.M.P.No.1596 of 2019

M/s.D.S.R.Sons India Engineers Pvt. Ltd.,
Rep. by its Managing Director
Ravikumar

.... Petitioner

Vs.

1. State By:
Inspector of Police
Special Investigation Cell,
Vigilance and Anti-Corruption,
Chennai-600 028.
2. The Regional Director for Tamil Nadu,
Reserve Bank of India
Fort Glacis, 16, Rajaji Salai,
P.B.No.40, Chennai-600001.

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to direct the Learned Special Judge & Chief Judicial Magistrate Court, Chengalpattu to return the Old Currency of Rs.4,00,000/- (Rs.3,00,000/- & Rs.1,00,000/-) (Rupees Four Lakhs only) (which is marked as MO.1 & MO.2 in Spl.C.C.No.17 of 2010) to the petitioner, enabling him to convert new currency and also further direct the 2nd respondent to exchange the old currency into the new currency.

For Petitioner : Mr.K.R.Ramesh Kumar

For Respondents : R.Ravichandran for R1
Government Advocate (CrI.Side)

Mr.C.Mohan, for R2

O R D E R

This Criminal Original Petition has been filed by the petitioner under Section 482 of the Criminal Procedure Code, to direct the Learned Special Judge & Chief Judicial Magistrate Court, Chengalpattu to return the Old Currency of Rs.4,00,000/- (Rs.3,00,000/- & Rs.1,00,000/-) (Rupees Four Lakhs only) (which is marked as MO.1 & MO.2 in Spl.C.C.No.17 of 2010) to the petitioner, enabling him to convert new currency and also further direct the 2nd respondent to exchange the old currency into the new currency.

2.The learned counsel for the petitioner would submit that the petitioner is the defacto complainant and the complaint was filed through one of the employee S.Balasubramaniam (PW.3) against Sivasankaran (A1) and Dayarathan (A2), then Junior Engineer and Executive Engineer of State Industrial Promotion Corporation of Tamil Nadu was incharge of SIPCOT Industrial Park, Sriperumbudur, Kancheepuram District.

3.The learned counsel for the petitioner would further submit that they had participated in the Tender process called for by the State Industrial Promotion Corporation of Tamil Nadu to provide "BT Road over the motorable Road over in 20m wide secondary road in phase- II at SIPCOT Industrial Part, Sriperumbudur, Kancheepuram District". Thereafter, the petitioner's company was selected as a successful bidder on 30.06.2009 and work order No.CW/SDO/T.No.9/2008-09 was issued by the Department and agreement was entered on 14.07.2009 between the Department and the petitioner's company.

4.The learned counsel would further submit that after completion of work for the part payment of Rs.1,15,28,639/- (out of the Estimated Cost of Rs.1,58,18,261/-), a cheque No.342365, dated 22.10.2009 drawn on Indian Bank, Chennai-600 008 was issued by the Head Office in favour of the petitioner's company. The normal procedure being followed in the Department is that after the receipt of the part payment, the nature and quality of the work has to be recorded in the Measurement Book (M Book) by the Sivasankaran, Junior Engineer(A1) and that same has to be certified by Dayarathan, Executive Engineer (A2) of State Industrial Promotion Corporation of Tamil Nadu. While so, to record in Measurement Book (M.Book) and to issue a work completion certificate, Sivasankaran, Junior Engineer (A1) has demanded a sum of Rs.3,00,000/- and Dayarathan, Executive Engineer (A2) had demanded Rs.1,00,000/- as bribe amount. Hence, the petitioner has decided to lodge a complaint against the said corrupt officials i.e. A1 & A2 to the 1st respondent i.e. DVAC. In order to lay the trap proceedings, the petitioner company handed over Rs.4 Lakhs to the 1st respondent and after complying the legal requirements trap proceedings was completed.

5.The learned counsel would further submit that after completion of investigation, final report was filed before the learned Special Judge & Chief Judicial Magistrate Court, Chengalpattu in Spl.C.C.No.17 of 2010 and the same was ended in acquittal. The said sum of Rs.4 lakhs i.e. MO.1 & MO.2, which was used for trap proceedings had been retained by the learned Special Judge & Chief Judicial Magistrate Court, Chengalpattu for consideration by the Legal Department of the 1st respondent to prefer an Appeal against the acquittal but the Legal Department of the 1st respondent has not given any positive opinion to prefer an appeal. Hence, the petitioner has filed the present petition for appropriate direction.

6.The learned counsel appearing for the 2nd respondent would submit that the currency of Rs.4 lakhs used by the 1st respondent for trap proceedings was before demonetization. After demonetization, the Reserve Bank of India has framed the specified Bank Notes (Deposit of confiscated notes) Rule, 2017 and in this aspect issued operational instruments on 25.05.2017, the relevant portion is extracted hereunder:

"2.In this regard, you are advised to accept Specified Bank Notes (SBNs) tendered by the eligible persons and / or Central / State Government Departments as defined in terms of Para(2)-(a), (b) and (c) of the above Rules and pay value of the SBNs by credit into bank accounts or exchange them for value in legal tender notes."

7.The learned counsel would further submit that the petitioner shall be directed to file an appropriate petition before the Trial Court so that the law enforcing agency shall authorise the currency which was used for trap proceedings. Thereafter, the Trial Court shall pass appropriate orders to the 2nd respondent to replace the old currency into new currency in the manner set down in the operational instruments.

8.Heard the learned counsel for the petitioner as well as the learned counsel for the 2nd respondent.

9.Considering the above submissions made by the learned counsel for the 2nd respondent, the petitioner shall file appropriate petition before the learned Special Judge & Chief Judicial Magistrate Court, Chengalpattu in Spl.C.C.No.17 of 2010 within a period of two weeks from the date of receipt of a copy of this order as per RBI's operational instruments. Thereafter, the Trial Judge shall pass appropriate orders as per the framed specified Bank Notes (Deposit of confiscated notes) Rule, 2017 within a period of four weeks.

8. Accordingly, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. Inspector of Police
Special Investigation Cell,
Vigilance and Anti-Corruption,
Chennai-600 028.
2. The Regional Director for Tamil Nadu,
Reserve Bank of India
Fort Glacis, 16, Rajaji Salai,
P.B.No.40, Chennai-600001.
3. The Public Prosecutor,
High Court of Madras
4. The Learned Special Judge &
Chief Judicial Magistrate Court,
Chengalpattu.
5. The Section Officer
Criminal Side
High Court of Madras

+1cc to Mr.K.R.Ramesh kumar, Advocate, S.R.No.7402
+1cc to Mr.King & Partridge, Advocate, S.R.No.7525

Crl.O.P.No.148 of 2019
and
Crl.M.P.No.1596 of 2019

GJ(CO)
GSP(27/02/2019)

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