

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.17445 of 2019

G.Jaganathan

... Petitioner

Vs.

1.M/s.Fridgehouse a partnership firm,
Represented by its Managing Director,
Mr.S.Giridharan\Near Vinayaga
Gaterers Auditorium,
Kadavanthata (Post),
Ernakulam - 682 020.

2.S.Giridharan,
Managing Partner,
M/s.Fridgehouse,
S/o.D.Shanbagamoorthy,
"Varsha, Shanthinagar,
Kadavanthara P.O.
Ernakulam - 682 020.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the Fast Track Court (Magisterial Level) II, Coimbatore to pass orders on the petitioners application in C.M.P.NO.4316 of 2019 in C.C.No.399 of 2014 on merits within a reasonable time as fixed by this Hon'ble Court.

For Petitioner : Mr.K.S.Karthik Raja

O R D E R

This Petition has been file for a direction to the Fast Track Court (Magisterial Level) II, Coimbatore to pass an orders on the application filed by the petitioner in C.M.P.No.4316 of 2019 to enable the petitioner to withdraw the amount of Rs.35,00,000/-, permitted by this Court.

2.The petitioner filed a complaint under Section 138 of the Negotiable Instruments Act against the respondents. The Trial Court convicted the accused persons and sentenced them to undergo punishment. Aggrieved by the same, the accused persons

filed an appeal in CrI.A.No.172 of 2015 before the V Additional District and Sessions Judge, Coimbatore and the Appellate Court confirmed the judgment of the Trial Court. Aggrieved by the same, the respondent filed a Criminal Revision before this Court in CrI.R.C.Nos.681 & 682 of 2017.

3. During the pendency of the Criminal Revision Petition, there was a compromise between the parties and therefore a request was made before this Court to compound the offence. This Court by an order dated 22.04.2019 compounded the offence and permitted by the petitioner to withdraw a sum of Rs.35,00,000/- which was already deposited by the respondents before the Trial Court. The relevant portion of the order passed by this Court is extracted hereunder:

"3. The learned Counsel for the respondent, though has no serious objections regarding the compounding the offence, only insists to pay the compensation equal to the cheque amount with interest. Now, the petitioners are ready to pay the compensation of the cheque amount. The offence under Section 138 of Negotiable Instrument Act is compoundable offence. Therefore, this Court is inclined to grant the relief sought for by the petitioners and the compounding petition is allowed and the petitioners are directed to pay a sum of Rs.1,55,000/- (Rupees one crore fifty five lakhs only). Since the petitioners have already deposited Rs.35,00,00/- (Rupees Thirty Five Lakhs only) as per the order of this Court dated 06.12.2018, the petitioners are directed to deposit the balance amount of Rs.1,20,00,000/- (Rupees one crore twenty lakhs only) before the learned Judicial Magistrate, Fast Track Court at Magistrate Level II, Coimbatore, within a period of 12 weeks from the date of receipt of a copy of this order failing which, the petitioners / accused shall undergo the period of imprisonment imposed by the trial Court.

4. With the above directions, this petition is allowed. In the meanwhile, the respondent herein is permitted to withdraw the amount of Rs.35,00,000/- (Rupees thirty five lakhs only) which was already deposited before the learned Judicial Magistrate, Fast Track Court at Magistrate Level II, Coimbatore. On such deposit of the balance amount within a period of 12 weeks from the date of receipt of

a copy of this order, the respondent is permitted to withdraw the said amount also. Hence, the Compound petition in Crl.M.P.No.4858 of 2019 in Crl.R.C.No.681 of 2017 is allowed and the Revision cases stands allowed and petitions here in are acquitted. Consequently, connected miscellaneous petition is closed."

4.Pursuant to the orders passed by this Court, the petitioner filed an application before the Court below in C.M.P>NO.4316 of 2019 to permit him to withdraw a sum of Rs.35,00,000/-. This petition is kept pending by the Curt below on the ground that some of the papers in the bundle is missing and the same is yet to be traced. Aggrieved by the inaction on the part of the Court below, the present petition has been filed before this Court.

5.Head the learned Counsel for the petitioner and carefully considered the materials placed on record.

6.This Criminal Original Petition is disposed of with a direction to the Fast Track Court (Magisterial Level) II, Coimbatore to immediately allow the application filed by the petitioner in C.M.P.No.4316 of 2019 and permit the petitioner to withdraw the sum of Rs.35,00,000/-. This process shall be completed within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

jas/vs

To

1.The Judicial Magistrate,
The Fast Track Court (Magisterial Level) II,
Coimbatore

2.The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.S.Karthik Raja, Advocate SR.No.56243

Crl.O.P.No.17445 of 2019

SV(CO)
GMY(09/07/2019)