



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Third day of July Two Thousand Nineteen

PRESENT

WEB COPY

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1785 of 2019

IN

CRL RC(MD) No.630 of 2018

T.P.SELVA RAYAN
(DECEASED)

...COMPLAINANT

1.S.THOMAS RAYAN
2.RAJAMANI
3.JACQUELYN

...LEGAL REPRESENTATIVES OF COMPLAINANT/
COMPLAINANTS 2 TO 4/RESPONDENTS 1 TO 3/
RESPONDENTS 1TO 3/ PETITIONERS

Vs

BABULAL SURANA

... ACCUSED/APPELLANT/PETITIONER/
RESPONDENT

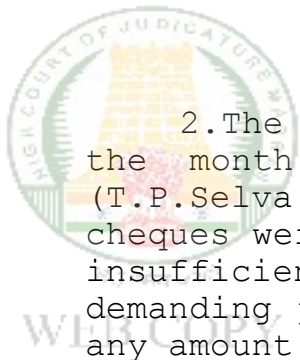
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to permit the 1st petitioner viz., S.Thomas Rayan to withdraw the compensation amount of Rs.20,00,000/- deposited by the Respondent / Accused to the credit of the account of the Judicial Magistrate, Valliyoor in C.C.No.316 of 2006 vide Challan Receipt hearing No.417093 dated 2.1.2019 pending the disposal of the above Criminal Revision Case in Crl.RC(MD)No.630 of 2018 on the file of this Honourable Court.

PRAYER IN CRL RC(MD) No.630 of 2018:

Pleaded to set aside the order passed by the Hon'ble I Additional District and Sessions Judge, Thirunelveli in Crl A.No.129 of 2015 dated 19.01.2018 in C.C.No.316 of 2006 on the file of the Hon'ble Judicial Magistrate, Valliyur dated 25.11.2015 and to allow this revision.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.SASI KUMAR, Advocate for the petitioners, the court made the following order:-

This Criminal Miscellaneous Petition is filed to permit the 1st petitioner viz., S.Thomas Rayan to withdraw 50% of the compensation amount deposited by the respondent/accused to the credit of C.C.No.316 of 2006 on the file of the Judicial Magistrate, Valliyoor, pending disposal of the criminal revision.



2.The respondent borrowed a sum of Rs.40,00,000/- as loan in the month of April 2006 from the father of the petitioners (T.P.Selva Rayan) and issued four posted dated cheques and when the cheques were presented for realisation, they were dishonoured due to insufficiency of funds and thereafter, legal notice was issued demanding payment, however, the respondent had not chosen to repay any amount. Hence, the case.

3.The Judicial Magistrate, Vallioor found the respondent guilty for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo Simple Imprisonment for a period of one year and directed him to pay a sum of Rs.40,00,000/- within two months from the date of judgment, in default to undergo Simple Imprisonment for 3 months. Aggrieved by the judgment of the trial court, the respondent preferred appeal in CrI.A.No.129 of 2015 on the file of the I Additional District and Sessions Judge, Tirunelveli, which was dismissed on 19.01.2018. Against which, the respondent filed the criminal revision before this court.

4.It is seen from the records that the respondent filed a petition seeking suspension of sentence before this court. This court, by order, dated 23.11.2018 suspended the sentence imposed by the courts below till 03.01.2019 and directed the respondent to deposit 50% of the compensation amount on or before 02.01.2019 and the order of this court has been complied with by the respondent. Now the petitioners filed this petition to permit the 1st petitioner (S.Thomas Rayan) to withdraw 50% of the compensation amount deposited by the respondent before the trial court.

5.Heard the learned counsel appearing on either side and perused the materials available on record.

6.The main contention of the petitioner is that the respondent had deposited 50% of the compensation amount before the trial court and if the deposited amount is withdrawn, no prejudice will be caused to the respondent. The petitioners further undertake to re-deposit the above amount in the event of this court passing the judgment reversing the judgments of the courts below.

7.In view of the above facts, this petition is **allowed**. The 1st petitioner is permitted to withdraw 50% of the deposited amount and the 1st petitioner shall also give an undertaking to the effect that at the end of the trial, if the money is found to be ill gotten, the 1st petitioner shall deposit the entire withdrawal amount with interest at 12% p.a within the time stipulated by this court.

sd/-

03/07/2019

/ TRUE COPY /



TO

1. THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THIRUNELVELI.

2. THE JUDICIAL MAGISTRATE,
VALLIYUR.

3. THE CHIEF JUDICIAL MAGISTRATE,
THIRUNELVELI DISTRICT.

+2. C.C. to Mr.V.SASI KUMAR Advocate SR.No.10964

ORDER

IN

CRL MP (MD) No.1785 of 2019

IN

CRL RC (MD) No.630 of 2018

Date : 03/07/2019

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TK/PN/SAR.1/10.07.2019/3P/6C