

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2020

CORAM

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.No.27399 of 2019

Vinoba

...Petitioner

Vs.

1. State, Represented by
The Inspector of Police,
F4, Kiliyanoor Police Station,
Villupuram District,
Cr.No.815/2018.

2. P.Panneerselvam

...Respondent

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 2nd respondent/accused to deposit entire amount to the Judicial Magistrate Court, Vanur, as per the Document No.3 in the above Crime No.815/2018 pending on the file of the Judicial Magistrate Court, Vanur.

For Petitioner	:	Mr.E.K.Kumaresan
For R1	:	Mr.S.Karthikeyan Additional Public Prosecutor
For R2	:	Mr.V.Elangovan

ORDER

This Criminal Original Petition has been filed seeking for a direction to the 2nd respondent/accused to deposit entire amount to the Judicial Magistrate Court, Vanur, as per the assurance given by the second respondent at the time of granting interim bail.

2. The case of the petitioner is that he is the defacto complainant in Crime No.815 of 2018 pending on the file of the respondent police. The second respondent/accused had promised to Rajkapoor, Cinema Director, to get medical seat to his daughter in Government Medical College, Trichy and fixed an amount of Rs.50 lakhs for the same. On 08.09.2018, the petitioner

contacted the second respondent/accused and paid Rs.30 Lakhs as an advance for the medical seat to the daughter of Raj Kapoor. Further, on 13.09.2019, he paid the remaining sum of Rs.20 lakhs to the second respondent. Thereafter, the second respondent created a fake medical seat allotment letter in the name of Medical Council of India in LDis.No.MCI/MCC/ACII(9) 31216/MBBS/2018-19/14601 dated 10.09.2018 and gave it to the petitioner. Ultimately, for the fraud committed by the second respondent, a case has been registered against him in Crime No.815/2018 under Section 294(b), 420, 468, 465, 471 and 506 (II). After registering the case, the second respondent has been arrested on 10.10.2019 and produced before the Judicial Magistrate, Vanur. On the same day, the second respondent has given a letter to the Judicial Magistrate, Vanur, accepting the fraud committed by him and promised to repay the said amount periodically within 3 months. By considering the said letter, the learned Judicial Magistrate, Vanur, had granted an interim bail on condition to surrender the passport before the investigating officer/respondent police within 24 hours. The undertaking letter given by the second respondent is now mentioned as Document No.3 in this petition.

3. It is the further case of the petitioner that after granting an interim bail, the second respondent had not complied the undertaking given before the Judicial Magistrate, Vanur and therefore, the interim bail granted on 10.10.2019 was cancelled and he was arrested on 03.01.2020. Thereafter, a bail has been granted after 45 days. Only in the said circumstances, the petitioner has filed this Criminal Original Petition, seeking for a direction to the second respondent to deposit the entire amount payable to the petitioner.

4. On the other hand, the learned Additional Public Prosecutor appearing for the respondent police would submit that in respect of Crime No.815/2018, the first respondent had completed the investigation and filed a final report before the Judicial Magistrate, Vanur and the same is pending in C.C.No.545/2020. He would specifically stated that the above referred case has been posted for framing of charges.

5. Heard the learned counsel for the petitioner, learned counsel for the second respondent and the learned Additional Public Prosecutor appearing for the respondent police.

6. The second respondent by promising to get medical seat to the daughter of Raj Kapoor, Cinema Director, had received a sum of Rs.50 lakhs from the petitioner and thereafter defrauded him. Hence, the petitioner is before this Court. However, it is duty of the Investigating Officer to recover the misappropriated amount during the time of investigation and deposit the same

before the Trial Court. But, in this case, nothing was recovered and deposited before the Trial Court.

7. On the other hand, it is made clear from the submission of the learned counsel for the second respondent that while at the time of granting bail, the petitioner had deposited his title deeds, in which, the petitioner is having the property worth about 30 lakhs. Therefore, In the said circumstances, after filing the final report, this Court cannot compel the accused to deposit the misappropriated amount. Therefore, the prayer sought for by the petitioner cannot be entertained. In fact, the said prayer is devoid of merits.

8. However, since the complaint has been registered in the year 2018, it is appropriate to direct the Judicial Magistrate, Vanur, to dispose the above C.C.No.545 of 2020 within a period of six months. Hence, the learned Judicial Magistrate, Vanur, is directed to dispose of the C.C.No.545/2020 within a period of six months from the date of receipt of a copy of this order.

9. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS IIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Vanur.

2.The Chief Judicial Magistrate,
Villupuram.

3.The Inspector of Police,
F4, Kiliyanoor Police Station,
Villupuram District,

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.E.K.Kumaresan, Advocate, S.R.No.33213

+1cc to Mr.V.Elangovan, Advocate, S.R.No.33047

CRL.O.P.No.27399 of 2019

GJ(CO)

KKV/09/12/2020