



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

Cr1.O.P.(MD)No.9323 of 2020

1.D.Pugalenth

2.Sathish Kumar, S/o.Pugalenth

... Petitioners

Vs.

The State Rep. by
The Sub-Inspector of Police,
DCB Ramanathapuram Police Station,
Ramanathapuram District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order dated 12.08.2020, passed in Cr.M.P.No.1823 of 2020, on the file of the Principal District and Sessions Court, Ramanathapuram, and extend three months time to comply with the settlement relating to Crime No.25 of 2020, pending on the file of the Sub-Inspector of Police, DCB, Ramanathapuram Police Station, Ramanathapuram District.

For Petitioners : Mr.G.V.Vairam Santhosh

For Respondent : Mr.S.Chandrasekar

Additional Public Prosecutor

ORDER

The petitioners have filed this Criminal Original Petition seeking the relief, to set aside the order dated 12.08.2020, passed in Cr.M.P.No.1823 of 2020, on the file of the Principal District and Sessions Court, Ramanathapuram, and extend three months time to comply with the settlement in connection with Crime No.25 of 2020, pending on the file of the Sub-Inspector of Police, DCB, Ramanathapuram Police Station, Ramanathapuram District.

2.The petitioners are the accused in Crime No.25 of 2020, pending on the file of the respondent police. The said case has been registered against the petitioners for the offence punishable under Section 420 I.P.C.

3.The crux of the case in the above referred F.I.R. is that, as per the agreement entered between the petitioners and the de-facto complainant, the petitioners agreed to sell the Bus, bearing Registration No.TN-58-X-8209, to the tune of Rs.60,00,000/- along with its Permit and further, a sum of Rs.25,00,000/- received by the petitioners as advance from the de-facto complainant, was paid towards hypothecation loan, which is having by the petitioners. Subsequently, the bus was taken by the Financier due to default in



payment of hypothecation loan amount. Hence, the de-facto complainant failed to conclude the contract and thereby, he refused to pay the balance amount within the stipulated time and hence, the contract entered between the petitioners and the de-facto complainant was not concluded.

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4.However, in respect of the advance amount of Rs.25,00,000/-, which was received by the petitioners, a sum of Rs.4,88,000/- was repaid to the de-facto complainant on 12.05.2020 in the presence of Police and thereafter, the petitioners were remanded to Prison on 13.05.2020. During the time of considering the bail application, the petitioners filed a Memo stating that both the petitioners are ready to pay the balance amount and also gave an undertaking to repay the amount of Rs.20,12,000/- within a period of two months, by selling the agricultural land belongs to the first petitioner/A1.

5.By considering the above said undertaking given by the petitioners, the Court below, vide order 03.06.2020 in Cr.M.P.No.1049 of 2020, has granted interim bail to the petitioners till 03.07.2020. Subsequent to the granting of interim bail, the petitioners have filed Cr.M.P.No.1639 of 2020 seeking modification of the order dated 03.06.2020 and extension of interim bail. The learned Principal District and Sessions Judge, Ramanathapuram, did not pass any order for modification, however, extended the interim bail till 03.08.2020, vide order dated 20.07.2020.

6.Even after extension of interim bail, the petitioners herein did not comply with the undertaking given before the Court of Law in respect of payment of balance advance amount. However, they filed another application in Cr.M.P.No.1823 of 2020 before the Principal District and Sessions Court, Ramanathapuram, in which, they sought additional three months' time for settlement. In the said application, the petitioners have narrated the story as if due to the advice given by the Government, they were in self-quarantine and therefore, they could not able to appear before the Court concerned. While considering the prayer sought for by the petitioners, the learned Principal District and Sessions Judge, Ramanathapuram, came to the conclusion that the reasons stated by the petitioners are not substantiated by way of filing any document to prove the fact that they were in self-quarantine. For the reason that the petitioners did not appear before the Court concerned, the prayer sought for by them was negatived by the learned Principal District and Sessions Judge, Ramanathapuram, vide order dated 12.08.2020.

7.Only in the above said circumstances, the petitioners have filed this Criminal Original Petition and prayed this Court to set aside the order dated 12.08.2020, in which, the Court below refused to extend the interim bail and also for extending the time for settlement.



8. On a close reading of the allegations levelled against the petitioners and the averments found in the Memo filed by the petitioners before the Trial Court, it would clearly reveal the fact that at the time of occurrence, the petitioners received Rs.25,00,000/- from the de-facto complainant as advance amount for selling the bus and its Permit. Further, when at the time of granting interim bail, they have given an undertaking before the Court below and the same has not been complied with till date. Even after knowing the reason for dismissal of the said application viz., for non-production of relevant document in respect of self-quarantine, the petitioners have filed the present Criminal Original Petition before this Court without any relevant documents, which shows that only in order to get a favourable order, the petitioners presented a false averment before the Trial Court. Hence, if these types of petitions are entertained, the affected parties do not get any justice from the Court of Law. Being the pre-owner, it is very easy for the petitioners to repay the advance amount received from the de-facto complainant, within a short period. It is not necessary for the petitioners to file the extension of time application after giving an undertaking to pay the advance amount within a short period, which shows that the petitioners have attempted to drag on the proceedings initiated against them. Accordingly, I am of the considered opinion that the petitioners have not approached this Court with clean hands. Hence, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note :- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal District and Sessions Judge,
Ramanathapuram.
2. The Sub-Inspector of Police,
DCB Ramanathapuram Police Station,
Ramanathapuram District.



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

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