



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.12122 of 2020

Jayanthi, F/A 39 years,
Daughter of Devaraj
Petitioner/Petitioner/Accused

...

Vs.

State: Station House Officer,
Villupuram Taluk Police Station,
Villupuram District. ... Respondent/Respondent/Complainant

Prayer: Criminal Original petition has been filed under Sections 439(1)(b) of the Code of Criminal Procedure, to modify the conditional order passed in Cr1.M.P.No.4945 of 2020 dated 10.07.2020 by the learned Sessions Judge, Villupuram Sessions Division, Villupuram filed in Cr.No.1360 of 2020 on the file of the Station House Officer, Villupuram Taluk Police Station, Villupuram District.

For Petitioner : Mr.D.Gopi krishnan

For Respondent : Mr.C.E.Pratap
Government Advocate (Cr1.Side)

O R D E R

(The case has been heard through video conference)

This Criminal Original Petition has been filed seeking to modify the conditional order passed by the learned Sessions Judge, Villupuram Sessions Division, Villupuram in Cr1.M.P.No.4945 of 2020 dated 10.07.2020.

2. The case of the prosecution is that the defacto complainant approached the petitioner for construction of his house and accordingly, he had entered into an agreement with the petitioner/accused for construction of house for a sum of Rs.32,72,000/- and in the above said circumstances, the defacto



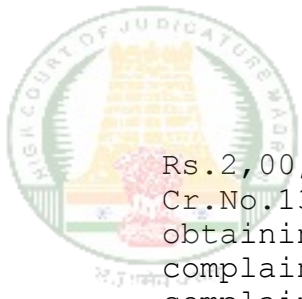
complainant paid a sum of Rs.31,00,000/- to the petitioner by availing loan from the bank and time limit was fixed to complete the construction is 6 months. But, the petitioner /accused had come forward to finish the construction work within the time limit specified in the construction agreement and cheated the defacto complainant. Hence, the law enforcing agency registered a case against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner filed a petition before the trial Court in CrI.M.P.No.4945 of 2020 and the trial Court had granted anticipatory bail to the petitioner by imposing a condition that the petitioner was directed deposited a sum of Rs.1000/- (Rupees One Thousand only) (Non refundable) towards the account of Cancer Institute(WIA) and to produce the bank challan before the said Court and further the petitioner was directed to complete the construction work as per the agreement within one month and to file a report and appear before the said Court on 12.08.2020. He further submit that during pendency of the case, the matter was referred to Mediation. The Mediation report is available in the case record, wherein it is stated that no settlement was reached between the parties. Further, the defacto complainant demanded to complete the work. Hence, the petitioner seeks to modify the condition imposed by the trial Court.

4. Heard the learned Government Advocate (CrI.Side) appearing for the respondent.

5. Considering the facts and circumstances of the case and also the fact that the petitioner and the defacto complainant entered into an agreement for construction of house and so far no work had been completed and the same is pending before the consumer forum.

6. In view of the above, this Criminal Original Petition is modified to the effect that the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the credit of Cr.No.1360 of 2020 before the learned Sessions Judge, Villupuram Sessions Division, Villupuram, instead of the petitioner was directed to complete the construction work as per the agreement within one month, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the learned Sessions Judge, Villupuram Sessions Division, Villupuram, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of



Rs.2,00,000/- deposited by the petitioner to the credit of Cr.No.1360 of 2020 will be returned to the petitioner and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter; The other conditions imposed by the Court below shall remains intact.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msrm

To

1. The Sessions Judge,
Villupuram Division, Villupurm.
2. The Station House Officer,
Villupuram Taluk Police Station,
Villupuram District.
3. The Public Prosecutor,
Madras High Court.

Cr1.O.P.No.12122 of 2020

pl[co]
srg 19/07/2021