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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P.No.22173 of 2021

1. D. Mayilsamy
2. Mrs.Nithya

... Petitioners

Vs.

State by
Inspector of Police,
City Crime Branch,
Coimbatore,
(Crime No.46 of 2021)

... Respondent

Prayer: Criminal Original Petition has been filed under Section 439(1)(B) of the Code of Criminal Procedure, to modify the condition that "the petitioners shall furnish security for a sum of Rs.50.0 lakhs before the learned Judicial Magistrate No.7, Coimbatore" in clause IV in Crl.M.P.No.4430/2021 on the file of the Learned Principal District and Sessions Judge, Coimbatore.

For Petitioner : M/s.K.Vasanthanayagan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For Intervener : Mr.M.Santhanaraman

O R D E R

This Criminal Original Petition has been filed seeking to modify the condition that "the petitioners shall furnish security for a sum of Rs.50.0 lakhs before the learned Judicial Magistrate No.7, Coimbatore" in clause IV in Crl.M.P.No.4430/2021 on the file of the Learned Principal District and Sessions Judge, Coimbatore.

2.The learned counsel for the petitioner submitted that it is alleged that the defacto complainant's son viz Dhananjayan introduced his friend i.e., 1st petitioner in the month of March



2018 and thereafter, they both started business in the name and style of M/s. Nandagokula Foods India Pvt Limited. The 1st petitioner introduced the bank officer of Tamil Nadu Mercantile Bank Limited viz Sermakani for obtaining loan for the purpose of commencing the business. Further, the loan was sanctioned for a sum of Rs.1,21,18,000/- and out of the same Rs.21,18,000/- was spent for the purpose of purchase of machinery and the remaining Rs.1.00 Crore kept for developing the business.

3. Thereafter, the 1st petitioner was alleged to have misappropriated the entire amount which was received from the bank by transferring the same to his wife, the 2nd petitioner and to his relatives due to which the complaint was lodged by the defacto complainant. Further, the petitioner filed a petition in Crl.M.P.No.4330 of 2021 seeking grant of anticipatory bail and the same was ordered on 08.11.2021 with certain conditions that if the petitioners were granted anticipatory bail, they shall furnish security for a sum of Rs.50.0 Lakhs before the Learned Judicial Magistrate No.7, Coimbatore.

4. He further submits that due to the Covid-19 Pandemic situation the business of the petitioner's become worse and they are facing serious financial constraint to meet out the day-to-day expenses of their business. In such circumstance the condition to deposit an amount of Rs.50 Lakhs will put them into great hardships and with irreparable loss which cannot be compensated at any cost for which the petitioners could not furnish security for the said amount. Further, the allegations alleged by the defacto complainant in the FIR is purely civil in nature. Hence, this Criminal Original Petition is filed seeking modification of the condition IV imposed by the lower court.

5. The Learned Additional Public Prosecutor and the Intervener made their submissions by raising their objections for the prayer sought for by the petitioners.

6. The reason stated by the petitioner is not justifiable as loan was raised by the defacto complainant from the Bank which was misappropriated by the petitioners herein. On perusing the documents which are produced, it reveals the truth that these petitioners have misappropriated the loan amount by sending their another mill account i.e Sampoarani Mills. To save the position of all the parties, the Court below has ordered deposit which cannot be found fault with. The order passed by the trial court is justifiable, and this Court is not inclined to accede to the relief sought for by the petitioners.



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Accordingly, this Criminal Original Petition is dismissed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

- 1.The Judicial Magistrate No.7,
Coimbatore.
- 2.The Principal District and Sessions Judge,
Coimbatore.
- 3.The Inspector of Police,
City Crime Branch,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court.

Cr1.O.P.No.22173 of 2021

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