



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.24984 of 2021

1.S.Arul Sengol Raj
2.A.Kalaiselvi

... Petitioners

Versus

State of Tamil Nadu:
Represented by:
Inspector of Police,
Central Crime Branch,
Vepery, Chennai.
(CCB Crime No.96 of 2013)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition of depositing 20 percent of compensation amount before the trial Court to the credit of C.C.No.186/2014, within, the period of one month, in the order dated 01.12.2021 in Crl.M.P.No.5192 of 2021 in Crl.A.No.86 of 2021, passed by the learned Principal District and Sessions Judge, Thiruvallur.

For Petitioners : Mr. D. Percivul Pericles

For Respondent : Mr. E. Raj Thilak,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to modify the condition of depositing 20 percent of compensation amount before the trial Court to the credit of C.C.No.186/2014, within, the period of one month, in the order dated 01.12.2021 in Crl.M.P.No.5192 of 2021 in Crl.A.No.86 of 2021, passed by the learned Principal District and Sessions Judge, Thiruvallur.

2. The petitioners are A1 and A2 in C.C.No.186 of 2014, were convicted by the trial Court dated 04.10.2021, for the offences under Section 406, 420 r/w 34, 120(b) of IPC. The petitioners were sentenced to undergo rigorous imprisonment of two years and directed to pay a compensation of Rs.94,04,250/-.



3. Aggrieved against the judgment, passed in C.C.No.186 of 2014, the petitioners had filed appeal before the Principal District and Sessions Court at Thiruvallur, in C.A.No.86/2021, in the appeal, the petitioners had filed petition under Section 389(1) Cr.P.C., for suspension of sentence in Crl.M.P.No.5102/2021, by order dated 01.12.2021, had directed the petitioners, jointly and severally to deposit 20% of the compensation amount to the credit of C.C.No.186/2014, within a period of one month and directed to deposit the amount on or before 23.12.2021.

4. The learned counsel for the petitioners submitted that the condition imposed by the trial Court is an onerous one. The trial Court without going into the merits of the case, had imposed a compensation amount of Rs.94,04,250/-. Further the lower appellate Court had directed the petitioners to pay 20% of the compensation amount, this condition is also an onerous one and they are unable to pay the compensation amount. Further, the petitioners relied upon the decision reported in (2007) 6 SCC 528 (Dilip S. Dahanukar Vs. Kotal Mahindra Co.Ltd and another).

5. The learned Additional Public Prosecutor, appearing for the respondent would submit that in this case several innocent public have been cheated by the petitioners. The victims in this case are P.W.1 to P.W.41, and all the witnesses are deposed against the petitioners and the petitioners have cheated the victims, they have also produced the ARC saving card which was issued by the petitioners and made believe the victims that the money is properly received giving acknowledgment of the money receipt.

6. Further submitted that the case has been registered and charge sheet has been filed in the year 2013, for the past seven years, they successfully evading the trial finally, the trial Court judgment has been passed. At this stage, the petition need not be entertained. The victims right to be considered.

7. Considering the facts and circumstances of the case, this Court is not inclined to modify the condition. It is found that 41 persons have been cheated to the tune of Rs.94,04,250/-. The lower appellate Court had rightly considered and passed an order with reasonable condition of deposit of 20% of the compensation amount which, this Court is not inclined to interfere with the order passed by the trial Court.

8. The contention of the petitioner is that the petitioners are unable to mobilise the fund within 23.12.2021, seeks short accommodation which is considered and one month time



is given to the petitioners to deposit 20% of the compensation amount before the trial Court to the credit of C.C.No.186/2014, on or before 02.02.2022.

9. With the above direction, this criminal original petition is disposed of.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Principal District and Sessions Judge,
Thiruvallur.
2. The Inspector of Police,
Central Crime Branch,
Vepery, Chennai.
3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.D.Percivul Pericles, Advocate, S.R.No.69239

CRL.O.P.No.24984 of 2021

RLD[co]
NSK 06/01/2022