



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.726 OF 2022

1.S.Ramamoorthy

2.R.Umamaheshwari

... Petitioners

Vs.

State by its
Inspector of Police,
Central Crime Branch,
VII Team, Chennai.
(Crime No.95 of 2013)

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition imposed in Crl.M.P.No.5293 of 2021 in Crl.A.No.87 of 2021 dated 01.12.2021 on the file of Principal District and Sessions Court, Thiruvallur, Thiruvallur District.

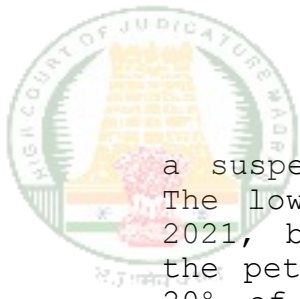
For Petitioners : Mr. G.Mohanakrishnan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to modify the condition imposed in Crl.M.P.No.5293 of 2021, in Crl.A.No.87 of 2021, dated 01.12.2021, on the file of Principal District and Sessions Court, Thiruvallur, Thiruvallur District.

2. The grievance of the petitioners is that the petitioners were facing trial in C.C.No.112 of 2014, for offences under sections 406 & 420 IPC. The Judicial Magistrate No.I, Poonamallee, by judgment dated 01.11.2021, convicted the petitioners and sentenced them to undergo two years rigorous imprisonment and to pay a sum of Rs.65,97,700/- as compensation within a period of one month. Aggrieved over the same, the petitioners preferred an appeal in Crl.A.No.87 of 2021 and filed



a suspension of sentence petition in Crl.M.P.No.5293 of 2021. The Lower Court, in Crl.M.P.No.5293 of 2021 in Crl.A.No.87 of 2021, by an order dated 01.12.2021, suspended the sentence of the petitioners and further directed the petitioners to deposit 20% of the compensation amount before the trial Court to the credit of C.C.No.112 of 2014 within a period of one month. Aggrieved over the same, the petitioners have filed this present petition.

3.The learned counsel for the petitioners submits that the first petitioner is a private caterer, the second petitioner is a homemaker. The second petitioner along with one Gnanasekaran conducted indigenous chit, who suddenly committed suicide, due to which, the petitioners were harassed to settle the chit amount. The second petitioner herself is a scapegoat now. He further submits that the trial court not properly appreciating the evidence had convicted the petitioners and imposed the condition without giving any reason. In view of the same, the condition imposed is an onerous one and the petitioners have got a good chance to succeed in the appeal. If the compensation amount payable is not reduced which would prove that the petitioners have admitted the offences and the petitioners' chance of fair appeal would get affected. The appeal is a statutory one.

4.The learned Additional Public Prosecutor submits that the petitioners along with one Gnanasekaran conducted indigenous chit. Seventeen persons have been cheated to the tune of Rs.65,97,700/- and the petitioners have given cheque for repayment of the chit amount but the cheques got dishonoured. The witnesses have produced the materials and they are running behind the petitioners to whom they have paid the money and got cheated.

5.The learned counsel for the petitioners at this stage voluntarily submits that without prejudice to their right in appeal, the petitioners are willing to make Rs.5,00,000/- as deposit and make it clear that this amount of Rs.5,00,000/- would not be considered as an admission in this case.

6.Considering the submissions, materials and the contention of the petitioners that the trial Court had not given any reason for imposing the condition of depositing 20% of the compensation amount seems to be reasonable. It is not a case where there is a statutory condition of payment of compensation amount while filing the appeal under Negotiable Instruments Act. This case is under Sections 460 and 420 IPC. In view of the same, this Court is not inclined to appreciate the act of the trial Court, since the petitioners have voluntarily come forward to deposit Rs.5,00,000/- to the credit of the C.C.No.112 of 2014 within one



month from the date of receipt of a copy of this order or the normal functioning of the Court whichever is earlier.

7. Accordingly, this criminal original petition is disposed of.

WEB COPY

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Principal District and Sessions Judge,
Thiruvallur, Thiruvallur District.
2. Inspector of Police,
Central Crime Branch,
VII Team, Chennai.
(Crime No.95 of 2013)
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. G.Mohanakrishnan, Advocate, S.R.No.3288

CRL.O.P.No.726 of 2022

PCH(CO)
PM/17/02/2022