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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.10627 of 2022

P.Ramalingam

...Petitioner/Accused No.1

Vs.

The State
the Inspector of Police,
E2, Peelamedu Police Station,
Coimbatore District.
(Crime No.157/2022)

...Respondent/Complainant

Prayer :- Criminal Original Petition filed under Section 439(1) (b) Cr.P.C. praying to modify the condition that the petitioner is directed to deposit a sum of Rs.10,00,000/- to the credit of the same in Crime No.157 of 2022 of Peelamedu Police Station, before the Judicial Magistrate Additional Mahila Court, Coimbatore within 30 days from today in Crl.M.P.No.231 of 2022 dated 04.04.2022 on the file of the learned Principal District & Sessions Judge, Coimbatore.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.R.Kishore Kumar
Government Advocate
(Criminal Side)

O R D E R

This petition has been filed for modification of the condition imposed by the learned Judicial Magistrate, Additional Mahila Court, Coimbatore, in Crl.M.P.No.231 of 2022 dated 04.04.2022, to deposit a sum of Rs.10,00,000/- to the credit of Crime No.157 of 2022 on the file of the Peelamedu Police Station.

2.The case of the prosecution is that the defacto complainant's father had three vacant cites and the accused persons approached them and assured that they will construct new house as required by them. As per the quotation to construct a new house, the amount has been fixed as Rs.1,02,66,000/- and the defacto complainant paid a sum of Rs.1,04,90,000/-. However, the accused persons did not complete the construction within a time



stipulated under the contract and also carried out the construction with substandard materials.

3. Therefore, two Chartered Civil Engineers were appointed to estimate the construction and they gave report assessing the value of the construction that Rs.61,00,000/- and Rs.70,00,000/- respectively. As per the said estimation, the accused persons owe to pay the balance amount, which were paid by the defacto complainant. Hence, the defacto complainant lodged the complainant as against the petitioner and others.

4. While granting anticipatory bail to the petitioner and others, the trial Court imposed the following conditions :-

"(i) Anticipatory bail is granted to the petitioner in the respective petitions.

(ii) The petitioner in the respective petitions shall execute a bond for Rs.10,000/- each in the event of their arrest or the petitioners shall surrender before the Judicial Magistrate, Additional Mahila Court, Coimbatore, and execute a bond of Rs.10,000/- each within 30 days from the date of this Order.

(iii) The petitioners shall produce two sureties like sum each to the value of Rs.10,000/- each to the satisfaction of the Judicial Magistrate, Additional Mahila Court, Coimbatore within 30 days from the date of this Order.

(iv) The petitioner in C.M.P.231 of 2022 is directed to deposit a sum of Rs.10,00,000/- (Rupees ten lakhs only) to the credit of the same in Crime No.157 of 2022 of Peelamedu Police Station, before the Judicial Magistrate, Additional Mahila Court, Coimbatore, within 30 days from today. After his deposit, the learned Judicial Magistrate is directed to deposit the same amount in any one of the Nationalized bank initially for a period of 12 months and thereafter renewable periodically.

(v) The petitioner in the respective petitions are directed to sign before the respondent police daily at 10.00 a.m., until further orders.

(vi) The petitioner in the respective petitions or their men shall not tamper the evidence.

(vii) The petitioner in the respective petitions shall not abscond and they shall co-operate with the investigation agency as and when required.



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(viii) In case of the condition No.(ii) to (vii) are violated, it is open to the investigating office to file appropriate application before the learned Judicial Magistrate for cancellation of bail granted hereby, as held by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560].

(ix) Final order in respect of the deposit amount will be passed by the trial Court in the final judgment/order."

Accordingly, the petitioner was directed to deposit a sum of Rs.10,00,000/- to the credit of Crime No.157 of 2022 within a period of 30 days from the date of that order.

5. Admittedly, there is a civil dispute between the petitioner and the defacto complainant with regard to construction of house. The Court below imposed the said condition on the basis of the Civil Engineers' report. Therefore, the Court below ought not to have imposed the said condition to deposit a sum of Rs.10,00,000/- on the petitioner.

6. In view of the above fact and circumstances, this Court is inclined to delete the condition No.8(iv). Accordingly, the condition No.8(iv) alone, imposed on the petitioner in CrI.M.P.No.231 of 2022 dated 04.04.2022, on the file of the learned Principal District & Sessions Judge, Coimbatore, is hereby deleted and other conditions shall remain intact. Further the petitioner is directed to surrender and execute the sureties as ordered by Court below, on or before 31.05.2022, failing which, the order passed by this Court shall stand automatically cancelled.

7. Accordingly, this Criminal Original Petition is ordered.

Sd/-
Assistant Registrar/
Vacation Officer

//True Copy//

Sub Assistant Registrar

rts

To

1. The Principal District & Sessions Judge,
Coimbatore.



2. The Judicial Magistrate
Additional Mahila Court,
Coimbatore.

3. The Inspector of Police,
E2, Peelamedu Police Station,
Coimbatore District.

4. The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.31577

CRL.O.P.No. 10627 of 2022

NRJK(CO)
RGA(26/05/2022)