



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.02.2022

Pronounced on : 04.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.645 of 2020

WEB COPY

Madhankumar

... Revision Petitioner/Petitioner/
Defacto complainant

Vs.

1.The Sub Inspector of Police,
District Crime Branch,
Karur District.
(In Crime No.15 of 2019).

... 1st Respondent/1st Respondent/
Complainant

2.Gaabi Gafoor

... 2nd Respondent/2nd Respondent/
2nd Accused

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the order made in Crl.M.P.No.905 of 2020 on the file of the learned Sessions Judge, Karur, dated 22.07.2020 and hand over the interim custody of the cash for a sum of Rs.34,00,000/- to the petitioner.

For Petitioner	: Mr.G.Prabhu Rajadurai for Mr.S.Gokul Raj
For R - 1	: Mr.B.Thanga Aravindh Government Advocate (Crl. Side)
For R - 2	: Mr.S.R.Rajagopal for Mr.K.Rajeshwaran

ORDER

This Criminal Revision Case has been filed as against the order, dated 22.07.2020 passed in Crl.M.P.No.905 of 2020 on the file of the learned Sessions Judge, Karur, thereby dismissing the petition for return of interim custody of the cash for a sum of Rs.34,00,000/-.

2. The petitioner is the defacto complainant and lodged a complaint as against the second respondent and others before the first respondent and the same has been registered in Crime No.15 of 2019 for the offences under Sections 120B, 294(b), 406, 420 and 506 (i) of I.P.C.

3. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record.



4. While pending the investigation, accused Nos.1 to 3 filed anticipatory bail application before this Court in Crl.O.P(MD)No.205 of 2020 and this Court dismissed the same, by an order dated 22.01.2020. Thereafter, the second accused/second respondent was arrested and remanded to judicial custody. Hence, the second accused moved a petition for bail in Crl.M.P.No.188 of 2020 before the learned Sessions Judge, Karur. By an order, dated 03.03.2020, the second accused was granted bail on condition that the second accused was directed to deposit a sum of Rs.34,00,000/- (Rupees Thirty Four Lakhs only) to the credit of Crime No.15 of 2019 of the District Crime Branch, Karur. On such deposit, he was ordered to be released on bail.

5. Accordingly, the second respondent/second accused deposited the sum of Rs.34,00,000/- to the credit of Crime No.15 of 2019 before the learned Judicial Magistrate No.I, Karur. After depositing the said amount, the petitioner/defacto complainant filed a petition under Section 451 of Cr.P.C seeking interim custody of cash of Rs.34,00,000/- on the ground that he entered into a tri-partite agreement for a sum of Rs.77,00,000/- and he deposited the entire amount to the accused company in various dates through RTGS and NEFT. After receipt of the said amount, the accused persons failed to deliver the car and cheated the entire amount which was deposited by the petitioner and therefore, he lodged the complaint. Hence, the petitioner is the absolute owner of the cash, which was deposited by the second accused and filed a petition for return of cash of Rs.34,00,000/-. However, the Court below dismissed the petition for the reason that there was a dispute between the defacto complainant and the accused about the claim of the amount. Therefore, it cannot be decided now with regard to release of the amount in favour of the defacto complainant while pending investigation.

6. Though the petitioner alleged that after deposit of the amount, no cars have been delivered by the accused persons and as such, he is entitled for the amount, which was deposited by the second accused. The accused persons claim that the cars were delivered to the agent of the defacto complainant, but the agent failed to deliver the car in favour of the customers as directed by the defacto complainant. Therefore, while pending investigation it cannot be decided about the return of cash in favour of the petitioner.

7. That apart, a sum of Rs.34,00,000/- was not seized from the accused persons and it is not the crime proceed. Only as directed by the Court below, while granting bail to the second accused, the sum of Rs.34,00,000/- was deposited by the second accused before the learned Judicial Magistrate No.1, Karur. Therefore, the Court below rightly dismissed the petition in Crl.M.P.No.905 of 2020, dated 29.03.2020. This Court finds no infirmity or illegality in the



order passed by the Court below and this petition is liable to be dismissed.

8. Accordingly, this Criminal Revision Case is dismissed. No costs. However, the learned Judicial Magistrate No.1, Karur is directed to deposit the sum of Rs.34,00,000/- (Rupees Thirty Four Lakhs only) in anyone of the Nationalized Bank as fixed deposit, so that it will fetch interest. Further, the petitioner is at liberty to approach the Court below for return of the said cash, after filing the final report, if he is so advised.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Judicial Magistrate No.1, Karur.

2.The Sessions Judge, Karur.

3.The Sub Inspector of Police,
District Crime Branch,
Karur District.

Copy to

The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.S.GOKULRAJ, Advocate (SR-9982[F] dated 04/03/2022)

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-10419[F] dated
07/03/2022)

Crl.R.C(MD)No.645 of 2020
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SP(CO)

KB(16.03.2022) 3P 7C

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