



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty First day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL MP(MD) Nos.12811 & 12812 of 2022

IN

CRL OP(MD) No.16032 of 2020

V.T.S.A.SHEIK ABDUL KADER

... PETITIONER/INTERVENOR
IN BOTH PETIITONS

Vs

1 THE STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, TIRUNELVELI,
TIRUNELVELI DISTRICT.
CR.NO.15/2020

... RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

2 V.T.S.A.ABDUL HAMEED

3 V.T.S.A.HAMEED HUSSAIN(PARTNER)

4 V.T.S.A.ABDUL BASITH(PARTNER)

5 SHERIF ALI

6 RAJESH

7 ABDUL KADHAR

... RESPONDENTS/ACCUSED 1 TO 6
IN BOTH PETITIONS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to direct the respondent police to proceed with the investigation and file final report before the jurisdictional court in Cr.No.15/2020 on the file of District Crime Branch Superintendent of Police Tirunelveli.

Prayer in CRL MP(MD) . 12812/ 2022 :

To modify the order passed by this Honourable court in Crl.O.P.No.16032/2020 by recalling the Arbitrator.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the

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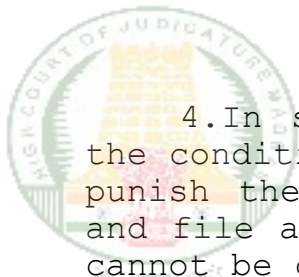
arguments of M/S.N.R.S.K.PANDIAN, Advocate for the petitioner, of Mr.B.THANGA ARAVINDH, Government Advocate(crl.side) on behalf of the 1st Respondent and Mr.V.KARTHICK, Senior Advocate for Mr.J.HARIHARAN, Advocate for the Respondents No.2 to 7, the court made the following order:-

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These petitions have been filed to stay the proceedings of the Arbitration appointed by this Court, the sole Arbitrator Justice Mr.K.N.Basha (Retd.,) in Crl.O.P(MD).No.16032 of 2020 order dated 01.04.2021, to modify the order passed by this Court in Crl.O.P(MD).No.16032 of 2020 by recalling the Arbitrator, to punish the contemnor respondent Abdul Hameed as he violates the Court order by selling the property in favour of the third person and to direct the respondent police to proceed with the investigation and file final report before the Jurisdictional Court in Crime No.15 of 2020 on the file of the District Crime Branch, Superintendent of Police, Tirunelveli.

2.The learned Senior Counsel appearing for the respondents 2 to 7 submitted that the respondents 2 to 7 apprehend arrest in pursuant to the registration of FIR in Crime No.15 of 2020 for the offences punishable under Sections 120B, 467, 468, 471, 419 and 420 of IPC filed Crl.O.P(MD).No.16032 of 2020. The case of the prosecution is that the defacto complainant and the petitioners 1 to 3 in Crl.O.P(MD).No.16032 of 2020 are blood bothers and one younger brother viz., Ayub Khan, who died on 09.04.2020, in which, the defacto complainant is the eldest among them. The petitioners 1 to 3 in Crl.O.P(MD).No.16032 of 2020 and the defacto complainant are partners of 5 Mark Beedi Company and the petitioners 4 to 6 in Crl.O.P(MD).No.16032 of 2020 are employees of the said Beedi Company. The petitioners without obtaining signature from the defacto complainant forged his signature in the sale agreement dated 10.10.2018, cheated the defacto complainant and sold one undivided partnership landed property. The bank account was transacted without his knowledge. Considering the facts and circumstances of the case, this Court granted anticipatory bail by an order dated 01.04.2021 to the respondents 2 to 7 herein. This Court also hold that both the parties agreed to appoint a retired Judge of this Court Mr.K.N.Basha as Arbitrator. Further, the parties were directed to submit their respective claim application as per Section 9 of the Arbitration and Conciliation Act, 1996 before the Arbitrator. Now, the Arbitrator had recused to be an Arbitrator and had withdrawn from arbitration citing his personal inconvenience. The learned Senior Counsel also submitted that they have no objection to recall the Arbitrator and also to remove the said clause.

3.Considering the above submission, the appointment of Arbitrator is hereby recalled.



4. In so far as the other prayers are concerned, viz. of the condition has been violated and as such, the petitioner seeks to punish the contemnor and also seeks to complete the investigation and file a final report in Crime No.15 of 2020. Both the prayers cannot be considered and both are rejected. However, the petitioner is at liberty to file a contempt petition separately, if any violation in the order passed by this Court. He is also at liberty to file a separate petition with regard to completion of investigation in Crime No.15 of 2020 on the file of the first respondent. Before the Arbitrator some of the proceedings were proceeded and as such, for remaining process, the parties are at liberty to proceed further before the Civil Court, if so advised.

5. Accordingly, Crl.M.P(MD).No.12812 of 2022 is allowed and Crl.O.P(MD).No.12811 of 2022 is dismissed.

sd/-

21/04/2023

/ TRUE COPY /

/05/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RMK

TO

1 THE JUDICIAL MAGISTRATE NO.I, TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, TIRUNELVELI,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

JUSTICE K.N.BASHA (RETD.,)
NO.25/1, DR.AMBEDKAR ROAD,
F-1, "NORTH THIRUMALAI NAGAR,
VILLIVAKKAM, CHENNAI-600 049.

ORDER IN

CRL MP(MD) Nos.12811 & 12812 of 2022
IN CRL OP(MD) No.16032 of 2020
Date :21/04/2023

SA/BUC/SAR.4/04.05.2023/3P/6C