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CRL OP No. 12397 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

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THE HONOURABLE MR.JUSTICE K.RAJASEKAR

CRL OP No. 12397 of 2025

T.A.Thinaguru

Petitioner(s)

Vs

1. State rep.by The Inspector of Police
Pallikaranai Police Station, Chennai
600100. Crime No.441 of 2024.

2.S. Sudhakar

Respondent(s)

PRAYER This petition is filed under Section 528 of BNSS, seeking to set aside the order passed in Crl.M.P.No.3795 of 2024 in Crl.M.P.No.2393 of 2024 on the file of the Honble Principal District and Sessions Judge at Chengalpattu dated 12.02.2025 and modify the same consequently direct the JM-II, Alandur to refund the deposited amount of Rs.4,00,000/- on him account in Crime No.441/2024 to considering the fact that the financial loss and hardship of the petitioner company.

For Petitioner(s): M/s.U.Indumathi

For Respondent(s): Mr.A.Gopinath
Government Advocate For R1
No Appearance for R2

**ORDER**

This Criminal Original Petition has been filed by the petitioner seeking to set aside the order passed by the Principal District and Sessions Judge, Chengalpattu, dated 12.02.2025 in Crl.MP.No.3795/2024 in Crl.MP.No.2393/2024.

2.The learned counsel for the petitioner submits that while one of the accused approached this Court in Crl.OP No.19285 of 2024 seeking anticipatory bail, this Court has permitted the defacto complainant to collect Rs.4,00,000/- directly from the petitioner therein by way of demand draft, that being so another accused has approached the Principal District and Sessions Judge, Chengalpattu, for seeking bail in the very same crime number, the learned Judge has directed the petitioner therein to deposit Rs.4,00,000/-. However added a condition that the deposited amount shall be refunded to the petitioner/accused if he do not found guilty. Aggrieved over the condition imposed to the accused, this petition is filed.

3.The learned counsel for the petitioner submitted that since the defacto complainant sustained huge financial loss, and the deposited amount of Rs.4,00,000/- by the other accused, namely S.Sudhakar may also be directed to be paid to the defacto complainant. Hence, he prays to set aside the order passed by the learned Principal District and Sessions Judge, Chengalpattu.

4.This Court has also ordered notice to the respondent No.2 and though notice was served and his name is also printed in the cause list, he has not appeared through his Counsel.



5. I have also gone through the allegations and also the connected papers.

The learned Sessions Judge agreed to grant bail to the petitioner therein based on the order passed by this Court in Crl.OP No. 19285 of 2024 that the petitioner therein was directed to pay Rs.4,00,000/- to the defacto complainant by way of Demand Draft and granted anticipatory bail. That being so, the learned Sessions Judge ought to have considered the possibility of directing the petitioner therein to pay the amount of Rs.4,00,000/-, to the defacto complainant as ordered by this Court. Similarly, the defacto complainant has not approached the learned Sessions Court at the earliest point of time while passing of the bail order. Further, the learned Sessions Judge, rejected the request of the petitioner to modify the condition. This Court is of the view that order of The Sessions Court to refund the deposit to the accused after Trial could not be considered illegal or violating any of the legal provisions. In the scheme of adversarial system of Criminal justice, the allegation levelled in the complaint shall be investigated by the police and only after full trial, the trial Court is empowered to order payment of compensation. If the property of crime is received during investigation, the Courts are empowered to order interim custody. In this case allegations levelled against the accused is that they cheated the defacto complainant and received money. Admittedly, the deposit made by the respondent is not the money or property seized during investigation and the accused voluntarily come forward to deposit for the purpose of availing the benefit of bail to show his bonafide and to contest the criminal case. Hence, this



Court is of the view that, the order of Session Judge is in order, and interference by this Court is unwarranted.

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6. Accordingly, there is no possibility of modifying the condition and hence, this Criminal Original Petition is dismissed.

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gbi



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600100. Crime No.441 of 2024.

2.The Public Prosecutor
High Court of Madras.



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K.RAJASEKAR J.
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