

(2019) 12 GUJ CK 0058

In the Gujarat High Court

Case No : Criminal Misc.Application (Modification Of Order) No.1 Of 2019 In R/
Criminal Misc.Application No. 11542 Of 2019

Manishbhai Bhupatrai Mehta

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 406, 420, 506(1)

Citation : (2019) 12 GUJ CK 0058

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : NL Ramnani, Nilam N. Chauhan, Mehul H Rathod, L.B. Dabhi

Final Decision : Dismissed

Judgement

A.J.Desai, J

1. By way of the present application, the applicant â?" accused has requested to modify the order dated 18.9.2019 passed by this Court in Criminal

Misc. Application No.11542 of 2019 and prayed to grant extension of 3 weeks to comply with the conditions so far as making the payment to the

complainant and third party is concerned.

2. In response to the notice issued by this Court, the complainant has appeared through learned advocate Mr. Mehul H. Rathod and opposed grant of

relief.

3. The short facts of the case are that FIR bearing I C.R. No.108 of 2019 came to be registered by the complainant with Krishnanagar Police Station,

Ahmedabad for the offence punishable under Sections 406, 420 and 506 (1) of the Indian Penal Code. It is alleged in the FIR that the complainant was

cheated by the accused by taking advance amount of Rs.38.14 Lacs towards the goods which were to be supplied by the applicant â?" accused, but in fact, were not supplied by the applicant to the complainant.

4. Since the applicant was apprehending his arrest, he preferred Criminal Misc. Application No.11542 of 2019 before this Court. In the said

proceedings, Mr. Ramnani, learned advocate appearing for the applicant made a statement that the applicant is ready and willing to pay an amount of

Rs.7.39 Lacs within a period of two weeks to Sahajanand Industries, proprietary firm of Mehul Prajapati. He further made a statement that the

applicant is also ready and willing to deposit an amount of Rs.21.50 Lacs in the account of Edge Petro Products through RTGS. Accordingly, the

applicant was released on bail imposing certain conditions. However, the applicant did not make the payment as agreed and hence, the present

application has been filed.

5. Mr. Ramnani, learned advocate appearing for the applicant would submit that the applicant could manage to deposit only Rs.1.75 Lacs till date.

However, he is unable to pay further amount. He, therefore, would submit that some more time may be granted and the order may be modified.

6. On the other hand, Ms. Nilam Chauhan, learned advocate appearing for Mr. Mehul Rathod for the complainant has opposed this application and

would submit that none of the conditions with regard to depositing the money has been complied with by the applicant. Even the Passport is also not

produced before the Investigating Officer. She, therefore, would submit that the present application may be rejected.

7. I have heard learned advocates appearing for the respective parties. Since the present application is for extension of time and till date, only meager

amount of Rs.1.75 Lacs is deposited, I would like to reproduce paragraphs 3 & 5 of the order dated 18.9.2019 as under :-

â??3. Mr. N.L. Ramani, learned advocate for the applicant, under instructions, states that subject to the rights and contentions of the applicant, the

applicant is ready and willing to pay an amount of Rs.7.39 Lacs within a period of two weeks from today by Demand Draft in the name of Sahajanand

Industries which is a proprietary firm of Mehul Prajapati. He would further submit that as far as the transactions took place between the applicant and

another Company, namely, Edge Petro Products which is a proprietary firm of one

Amarsinh Mangilalji Pawar who has executed Power of Attorney

in favour of the present complainant, the applicant is ready and willing to deposit an amount of Rs.21.50 Lacs in the account of Edge Petro Products

through RTGS and for making the said payment, some reasonable time may be granted. He would further submit that the nature of allegations are

such for which custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not

flee from justice. In view of the above, the applicant may be granted anticipatory bail.

5. Mr. Mehul Rathod, learned advocate appearing for the Complainant has opposed the present application. He has raised objection with regard to the

amounts for which the applicant has shown his readiness and willingness to pay the same and would submit that in reality, more amount is outstanding

from the applicant. He, therefore, would submit that present application be rejected.â??

8. As per the above statement made by learned advocate appearing for the applicant, conditions were imposed. Relevant conditions read as under :-

â??(h) shall pay an amount of Rs.7.39 Lacs within a period of two weeks from today by Demand Draft in the name of Sahajanand Industries, a

proprietary firm of Mehul Prajapati;

(i) shall directly deposit an amount of Rs.21.50 Lacs in the account of Edge Petro Products, a proprietary firm of one Amarsinh Mangilalji Pawar,

through RTGS in the following manner :-

(i) shall deposit an amount of Rs.7 Lacs directly in the account of Edge Petro Products through RTGS within a period of two weeks from today;

(ii) shall deposit remaining amount of Rs.14.50 Lacs directly in the account of Edge Petro Products through RTGS in equal three monthly installments

starting from 1.10.2019;

(j) file an undertaking to the aforesaid effect before this Court within a period of one week from today;â??

9. It appears from the record that the applicant has not complied with any of the above conditions. Even the Passport is also not deposited by the

applicant with the Investigating Officer as per one of the conditions imposed by this Court. Hence, the present application is meritless and is

accordingly rejected. Rule is discharged.