

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.12.2014

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P. NO.19721 OF 2013

Sathyabama

.. Petitioner (Victim)

Versus

1.The Inspector of Police,
C-3 Arani Police Station,
Thiruvallur District.

2.Deputy Superintendent of Police,
Uthukottai,
Thiruvallur District.

3.Superintendent of Police,
Thiruvallur,
Thiruvallur District.

4.Neela Krishna Mohan Rao

..Respondents (Complainant &
Accused)

PRAYER : Criminal Original Petition filed under Section 439(2) of the Code of Criminal Procedure, praying to cancel the bail order passed on 28.04.2011 in C.M.P.No.2037 of 2011 in Cr.No.51 of 2011 on the file of the learned Judicial Magistrate No.I, Ponneri.

For Petitioner : Mr.John Richard Ebenezer
For Respondents - 1 to 3 : Mr.C.Ayyapparaj
Government Advocate (Crl.Side)
For Respondent - 4 : Mr.N.Anand Venkatesh
Orders reserved on : 22.12.2014

WEB COPY
O R D E R

This petition has been filed to cancel the bail order passed by the learned Judicial Magistrate No.I, Ponneri, in C.M.P.No.2037 of 2011 in Cr.No.51 of 2011 on 28.04.2011.

2. The case of the prosecution is that, on 27.04.2011, the Revenue Divisional Officer of Ponneri Division conducted a bonded labour inquiry at SLG Bricks Chambers in Ponneri Taluk that was

operated by the fourth respondent / accused. During the inquiry, it came to light that about 400 people were kept as bonded labourers in the brick kiln of the fourth respondent / accused and many of them belong to Scheduled Caste. Inquiry also revealed that the fourth respondent / accused had beaten them on some occasions resulting in bodily injuries to many. Based on the report submitted by the Revenue Divisional Officer, the Thasildar, Ponneri Taluk lodged a complaint, and based on which, the Inspector of Police, C-3, Arani Police Station [first respondent herein] has registered a case in Crime No.51 of 2011 for offences under Sections 16 and 18 of Bonded Labour System Act, 1976 and Sections 374, 323 IPC r/w Section 3(1)(vi) of SC/ST Act on 27.04.2011.

3. The fourth respondent / accused was arrested and produced before the learned Judicial Magistrate No.I, Ponneri, on 27.04.2011 and the learned Magistrate on the very next day has granted bail holding that the F.I.R. does not disclose the commission of an offence under Section 3(1)(vi) of SC/ST Act. Challenging the bail order, one of the victim has approached this Court for cancelling the bail.

4. Heard Mr.John Richard Ebenezer, learned counsel for the petitioner, Mr.C.Ayyapparaj, learned Government Advocate (Criminal Side) for the respondents 1 to 3 and Mr.N.Anand Venkatesh, learned counsel for the fourth respondent / accused.

5. Mr.N.Anand Venkatesh, learned counsel for the fourth respondent submitted that there is no perversity or illegality in the bail order and that there are no supervening circumstances warranting interference by this Court by cancelling the order of bail that has been granted by the learned Magistrate way back in 2011.

6. It is not axiomatic that bail can be cancelled only if the accused had abused the conditions of bail. In Prakash Kadam and others v. Ramprasad Viswanath Gupta [2011(6) SCC 189] and Kanwar Singh Muna v. State of Rajasthan [2012(12) SCC 180], the Supreme Court has held that the High Court can cancel the bail even in cases where the order granting bail suffers from serious infirmities resulting to miscarriage of justice. Where it is shown that the very grant of bail has been by a perverse order, this Court cannot turn a blind eye to it on the ground that there is no complaint against the accused that he has misused the bail. In this case, on a very reading of the report filed by the Revenue Divisional Officer and the Tahsildar, it is obvious that many of the victims belong to the Scheduled Caste and they were kept as bonded labourers and were also subjected to ill-treatment. Prima facie, there were enough materials before the learned Magistrate to show that Sec.3(1)(vi) of the SC & ST was attracted. Only during the course of investigation can the police collect more materials to find out the mens-rea and other ingredients required to sustain the Final Report. The Magistrate

ought not to have foreclosed the issue by holding at the threshold itself that Sec.3(1)(vi) will not stand attracted.

7. Taking into consideration the gravity of the allegations against the fourth respondent / accused and bearing in mind the cavalier manner in which the learned Magistrate has held that the provisions of the SC/ST Act does not stand attracted, the bail granted by the learned Magistrate is cancelled. The Criminal Original Petition is allowed and the fourth respondent/ accused is directed to surrender forthwith, failing which, the Police shall take him into custody.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Judicial Magistrate No.I, Ponneri.

2.The Inspector of Police,
C-3 Arani Police Station,
Thiruvallur District.

3.The Deputy Superintendent of Police,
Uthukottai,
Thiruvallur District.

4.The Superintendent of Police,
Thiruvallur,
Thiruvallur District.

5.The Public Prosecutor,
High Court of Madras,
Chennai - 600 104.

+ 1 cc to Mr.N.Anand Venkatesh, Advocate Sr.63883

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KJI (CO)
Eu 21.1.15