

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Revision Case No.934 of 2015
and
M.P.No.1 of 2015

1. Prabhakaran
2. Sivaraman @ SivaramakrishnanPetitioners/ A2 & A3

vs.

State rep.by
the Inspector of Police,
Koradachery Police Station,
Tiruvavarur District. ... Respondent/ Complainant

PRAYER : Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure praying to call for the records in Crl.M.P.No.1181 of 2015 in Crl.M.P.No.955 of 2015 on the file of the Principal District and Sessions Judge, Tiruvavarur and to set aside the order dated 6.8.2015.

For Petitioners : Mr.R.Vivekananthan

For respondent : Mr.V.Arul,
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed by the petitioners praying to set aside the order dated 6.8.2015 passed in Crl.M.P.No.1181 of 2015 in Crl.M.P.No.955 of 2015, whereby the learned Principal District and Sessions Judge, Tiruvavarur has cancelled the anticipatory bail granted to the petitioners.

2. The learned counsel for the petitioners submitted that the Court below has cancelled the anticipatory bail granted to the petitioners on the ground that the petitioners did not comply with the condition imposed by it and they did not report before the Police authority for two days i.e. on 13.07.2015 and 14.07.2015. As per the conditions imposed by the Court below for grant of anticipatory bail, the petitioners have to stay in Pudukottai Police Station limits and report before the Ganesh Nagar Police Station, Pudukottai. According to the learned counsel for the petitioners, the co-accused i.e., first accused in the case had to admit his daughter in a hospital due to her illness; hence, suddenly he had gone to Tiruvavarur and admitted his daughter in a hospital and as such, he could not inform the police authorities

with regard to his absence in Pudukottai. In the absence of the co-accused, the petitioners, who are accused 2 and 3 were not permitted to sign by the police authorities. Thereafter, the petitioners have complied with the condition imposed by the Court below from 20.07.2015 to 06.08.2015. But, in the meanwhile, the prosecution has filed Crl.M.P.No.1181 of 2015 seeking cancellation of bail granted to the petitioners. But, the Court below, without considering the fact that the non-compliance of the condition by the petitioners is not willful and it is only because of the first accused left Pudukottai to admit his daughter in the hospital, has cancelled the anticipatory bail granted to the petitioners.

3. The learned counsel for the petitioners would further submit that the petitioners are ready to give an undertaking that they will appear before the trial Court on all hearing days and they will abide by any condition that may be imposed by the Court below. Further, the learned counsel would submit that in similar circumstances, Crl.R.C. No.836 of 2015 was filed by A.1, who left Pudukottai to admit his daughter in hospital, before this Court seeking to set aside the order passed in Crl.M.P.No.1181/2015 in Crl.M.P.No.955/2015 and it was allowed with some directions. Since the present petitioners who are A-2 and A.3 in the same case, the learned counsel appearing for the revision petitioners prayed for allowing this Criminal Revision Case on the same terms.

4. The learned Government Advocate (Crl.Side) submitted that if there is violation of the conditions imposed by the Court for grant of bail, then cancellation of bail is automatic. However, he would submit that on verification from the police, it is now transpired that the first accused in the case left Pudukottai to admit his daughter in hospital, which resulted in the police refusing permission for the petitioners/A-2 and A-3 to sign in the register.

5. Heard the learned counsel for the petitioners as well as the learned Government Advocate (Criminal Side).

6. No doubt, the petitioners have violated the condition imposed by the Court below while granting anticipatory bail to him. The petitioners did not report before the police authorities as directed by the Court below and they did not obtain any permission from the Court to enter Tiruvar and as such, they violated the condition imposed by the Court below, which is a serious one. However, the violation was done only because of the fact that the first accused in the case had to take his daughter to the hospital due to her illness and in the absence of the first accused, the petitioners, who are accused 2 and 3, were not permitted to sign. According to the petitioners, in view of the absence of the first accused, they were not allowed to sign by the police authorities. The petitioners would also contend that they have no intention to disobey the order. The petitioners undertakes to get along with the case. Hence, taking into consideration the extraordinary situation under which the

petitioners did not report before the police authorities, this Court is of the view that some leniency could be shown to the petitioners.

7. Accordingly, the impugned order is set aside and the petitioners are directed to surrender before the Court below within one week from the date of receipt of this order and file appropriate application, along with the affidavit of undertaking to the effect that they will appear before the trial Court on all hearing days and comply with all the conditions to be imposed by the Court below. On such application being filed by the petitioners, the Court below is directed to consider the same and pass appropriate orders, by imposing any condition as required.

8. With the above terms, the Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

asvm

To

- 1.The Principal District and Sessions Judge,
Tiruvarur.
- 2.The Inspector of Police,
Koradachery Police Station,
Thiruvarur.
- 3.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.R. Vivekananthan, Advocate, Sr. 48476

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and
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