

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2015

Coram:

THE HON'BLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.7197 of 2015

R.Kaliyamurthy ... Petitioner/Peititioner

Vs.

1. The Station House Officer,
Reddiyarpalayam Police Station
Union Territory of Puducherry.

2. Samsun ... Respondents/Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the entire records which culminated in passing the order dated 04.12.2014 passed in Crl.M.P.No.1675 of 2014 on the file of the Principal Sessions Judge (Special Judge), Puducherry, set aside the same and consequently, direct the trial Court to release the sale deed dated 06.10.2015 registered in the name of the petitioner as document No.3289 of 2005 on the file of Joint Sub-Registrar -II, Villupuram.

For Petitioner : Mr.E.Manikandan

For 1st Respondent : Mr.M.R.Thangavel

Additional Public Prosecutor (Pondy)

ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent No.1 and perused the material placed on record.

2. One Samsun, the second respondent herein, who is involved in Crime No.54 of 2014 for offences under Sections 376(1) IPC and Section 4 of the Protection Of Children from Sexual Offences Act, 2012, was granted Anticipatory bail by this Court in Crl.O.P.No.25563 of 2013 on 24.09.2014 and in the order, this Court has passed the following conditions:

“(a)In the event of arrest by or on appearance before the respondent police

(b) In the event of appearance before the learned Special Judge, Puducherry, within 15 days from the date of receipt of a copy of the order,

(i) the petitioner shall be enlarged on bail on his executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties each for the likesum to their satisfaction;

(ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer;

(iii) the petitioner shall be available for interrogation by the respondent police daily at 10.30 a.m. for two weeks and thereafter, as and when required."

3. The petitioner herein came forward to stand as a surety for the said Samsun and he gave a bond and at the time of giving the bond for Rs.10,000/-, he gave his original Settlement Deed dated 06.10.2005 to the learned Magistrate to show that he is worth Rs.10,000/-. The learned Magistrate accepted the bond and the original settlement deed and released the said Samsun on bail. Now, the petitioner is in need of the original settlement deed dated 06.10.2005, since he wants to raise a loan to meet some urgent expenses that has arisen in his family. Therefore, he filed an application in C.M.P.No.1675 of 2014 before the learned Principal Sessions Judge (Special Judge), Pondicherry and the same has been dismissed by passing the following orders;

"4. Heard. Perused the records. The contention of the petitioner is that he is in need of the original document for obtaining loan from the Government. The learned Public Prosecutor has strongly objected for the same. Under these circumstances, considering the gravity of the offence and the objection raised by the learned Public Prosecutor, this petition is dismissed. However, the petitioner is at liberty to surrender the accused before this Court and can get the accused released on bail by furnishing fresh sureties along with suitable documents."

4. After all what is required by the surety is that he should satisfy the Court that he shall pay a sum of Rs.10,000/-, if the accused absconds and that he has sufficient means to pay that amount.

It is not necessary to deposit the original settlement deed, which is worth several lakhs of rupees, to show that the surety is worth Rs.10,000/-. Therefore, this Court is of the view that the order passed by the trial Judge is erroneous and the same is set aside.

5.The learned Principal Sessions Judge (Special Judge), Puducherry, is directed to return the original Settlement Deed dated 06.10.2005 to the petitioner herein, after retaining a photocopy of the same on his file. The Court shall not put any seal on the said document for that will lead to unnecessary complications for the petitioner when he wants to alienate the property. Accordingly, this Criminal Original Petition is allowed.

mps

-s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The Principal Sessions Judge (Special Judge), Puducherry.
2. The Station House Officer, Reddiarpalayam Police Station, Union Territory of Puducherry.
3. The Public Prosecutor (Puducherry) High Court, Madras.

+ 2 ccs to Mr.E.Manikandan, Advocate SR 19719

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