

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 24.06.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.29270 of 2013

D.Thangaraj

... Petitioner

Vs

1. The State represented by
Inspector of Police,
P2, Otteri Police Station,
Puliyamthopu, Chennai-11.

2. Umar Shankar

... Respondents

Criminal Original Petition filed under Section 439(2) of Cr.P.C. to cancel the bail granted to the 2nd respondent herein in Crl.M.P.No.2149 of 2012, dated 03.10.2013 by the learned V Metropolitan Magistrate, Egmore, Chennai, in respect of Crime No.1170 of 2012 on the file of the 1st respondent-Police.

For Petitioner :Mr.V.Vijayashankar

For Respondents :Mr.M.Mohamed Riyaz, Govt. Advocate (Crl.Side) (For R1)

ORDER

The present criminal original petition has been filed seeking to cancel the bail granted to the 2nd respondent/accused in Crl.M.P.No.2149 of 2012 dated 03.10.2013 by the learned V Metropolitan Magistrate, Saidapet, Chennai.

2.In the affidavit filed in support of this petition, it has been averred by the petitioner that on 11.07.2012 he lodged the complaint as against the 2nd respondent herein stating that the 2nd respondent herein and his family members had cheated him to the tune of Rs.8,50,000/-; that the said amount was paid as an advance for obtaining Licence for Agency, which the 2nd respondent has promised to get from his shipping company; that on failing to get the agency, the 2nd respondent herein was dodging to make the payment; that even the cheque given by the 2nd respondent was found to be fabricated one. On the basis of the complaint lodged by the petitioner herein, a case in Crime No.1170 of 2012 was registered by the 1st respondent-Police

under Section 406, 420 & 506(ii) IPC. Thereafter, the 2nd respondent/accused had filed an anticipatory bail petition in CrI.O.P.No.27319 of 2012 before this Court and by order dated 28.11.2012 this Court had granted anticipatory bail to the 2nd respondent herein with a condition that he should deposit a sum of Rs.1,00,000/- with the 1st respondent-Police; but, he did not comply with the said condition. It is further stated by the petitioner that the 2nd respondent/accused is threatening the petitioner and family members and is compelling to withdraw the complaint lodged by the petitioner against him. Thereafter, since the 1st respondent-Police did not take any further step, the petitioner herein filed a petition in CrI.O.P.No.20951 of 2013 before this Court seeking change of investigating agency and the said petition is pending before this Court. In the meantime, the 2nd respondent/accused was arrested by the 1st respondent-Police. Subsequently, the 2nd respondent/accused filed a bail petition before the learned V Metropolitan Magistrate, Egmore, Chennai and in the said bail petition, the petitioner herein has also made his objection by filing intervening petition. But, without taking into consideration the fact that the 2nd respondent herein/accused has not complied with the condition imposed by this Court at the time of granting anticipatory bail, the learned Magistrate has granted bail to the 2nd respondent herein on 03.10.2013. Hence, the present petition has been filed by the petitioner seeking cancellation of the bail.

3.The learned counsel for the petitioner submitted that without taking into consideration the fact that the 2nd respondent herein/accused has not complied with the condition imposed by this Court at the time of granting anticipatory bail, the learned Magistrate has granted bail to the 2nd respondent herein and hence, the bail granted to the 2nd respondent has to be cancelled.

4.The learned Government Advocate (CrI.Side) submitted that the investigation in this case has already been completed and charge-sheet has also been filed before the concerned Court below.

5. I have heard the submissions made by the learned counsel for the petitioner and the learned counsel for the 2nd respondent and the learned Government Advocate (CrI.Side).

6.On perusal of the materials available on record, I find that though a condition to deposit a sum of Rs.1,00,000/- was imposed on the 2nd respondent/accused by this Court while granting anticipatory bail, subsequently the Police arrested the 2nd respective/accused since he had not complied with the said condition. Thereafter only, the bail has been granted by the Court below. Moreover, on completion of investigation, final report has also been filed by the 1st respondent-Police. Therefore, I am of the opinion that at this juncture, the question of cancellation of bail does not arise.

7.Hence, the criminal original petition is liable to be dismissed and accordingly, the same is dismissed.

ssv

s/d-
Deputy Registrar(J)

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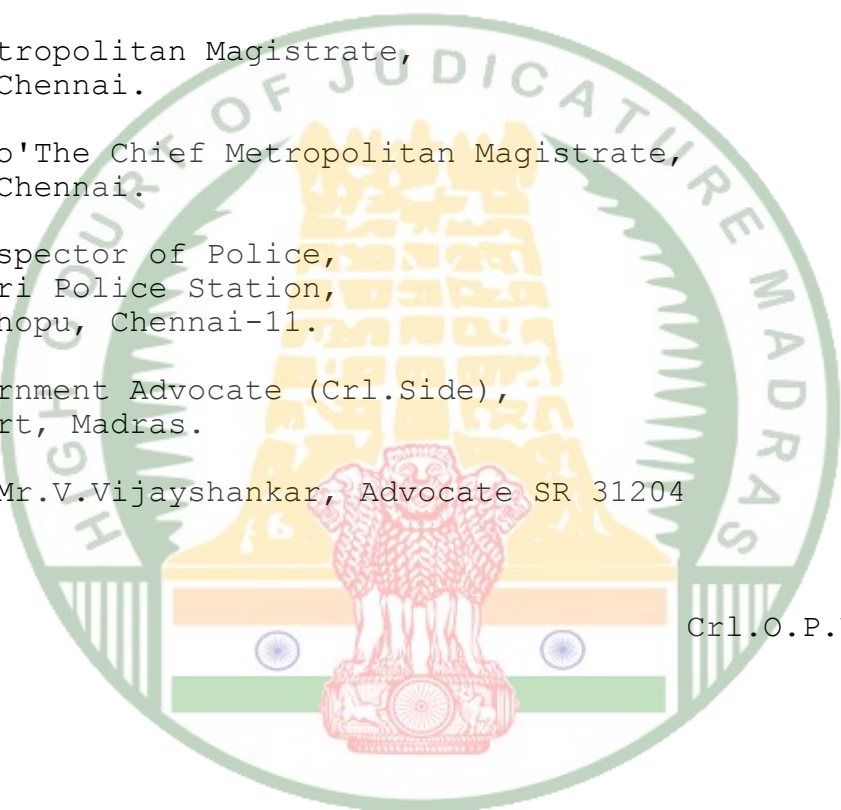
Sub-Assistant Registrar

To

- 1.The V Metropolitan Magistrate,
Egmore, Chennai.
 - 2.-DO- thro'The Chief Metropolitan Magistrate,
Egmore, Chennai.
 - 3.The Inspector of Police,
P2, Otteri Police Station,
Puliyamthopu, Chennai-11.
 - 4.The Government Advocate (Crl.Side),
High Court, Madras.
- + 1 cc to Mr.V.Vijayshankar, Advocate SR 31204

rj(co)
prk8/7

Crl.O.P.No.29270 of 2013



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