



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2015

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CRL.O.P.(MD)No.21342 of 2015
and M.P.(MD)No. 1 of 2015

1.P.Devadhasan
2.P.Muthunayagam
3.Pichumony, S/o.Ponnupillai
4.Wilson, S/o.Thaveethu : Petitioners/Petitioners

Vs.

State Represented through
The Inspector of Police,
Thiruvattar Police Station,
Nagercoil,
Kanayakumari District. : Respondent/Respondent

PRAYER: Petition filed under Section 439(1)(b) of the Criminal Procedure Code praying to call for the records relating to the order passed in Crl.M.P.No.3222/2015, dated 29.10.2015, by the learned Sessions Judge, Kanayakumari Division at Nagercoil and set aside the same insofar as it relates to condition No.1 imposed in the order.

For Petitioners : Mr.K.Samidurai
For Respondent : Mr.K.Anbarasan
Government Advocate
(Criminal Side)

ORDER

The petitioners have come forward with this petition under Section 439(1)(b) of Code of Criminal Procedure, seeking to set aside the order passed in Crl.M.P.No.3222 of 2015, dated 29.10.2015, by the learned Sessions Judge, Kanyakumari Division at Nagercoil, insofar as it relates to condition No.I, imposed in the order.

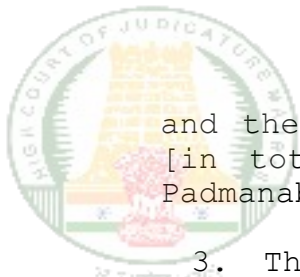
2. The brief facts of the case is as follows:

(i) The Inspector of Police, Thiruvattar Police Station, has registered a case against the petitioners and other accused in Crime No.672 of 2015, for the offences under Sections 147, 148, 443, 427, 294 (b) and 506(ii) IPC. According to the prosecution, the petitioners have unlawfully assembled and trespassed into the land and damaged the properties worth about Rs.20,000/- and while the de-facto complainant enquired the matter with the petitioners, they used filthy language and threatened him.

(ii) The petitioners approached the Trial Court seeking anticipatory bail. In Crl.M.P.No.3222 of 2015, while, the Trial Court granting anticipatory bail to the petitioners, imposed some conditions. The first

<https://hcservices.ecourts.gov.in/hcservices/>

"The petitioners in both the petitions shall surrender before the concerned Court within 15 days from today without fail



and the petitioners shall deposit a sum of Rs.20,000/- each [in total Rs.2,00,000/-] before the Judicial Magistrate Court, Padmanabhapuram."

3. The contention of the petitioners is that even as per the prosecution case, the value of the damaged property is only Rs.20,000/-, but, the Trial Court imposed a condition that the petitioners shall deposit Rs.20,000/- each (totally Rs.2,00,000), is onerous and liable to be set aside.

4. The learned counsel for the petitioners relied upon the judgment reported in 2015 (1) MLJ (CrL.) 471 [Amaldos and Others Vs. State rep.by the Inspector of Police, Patteeswaram Police Station, Thanjavur District], wherein, it has been held as follows:

"While granting bail, Court is entitled to put conditions as its discretion, but same must be reasonable and judicious and should not be arbitrary"

5. In the present case, the Trial Court has rightly held that according to the respondent there was a damage of property to the tune of Rs.20,000/-. However, the Trial Court imposed a condition that the petitioners shall deposit Rs.20,000/- each and totally Rs.2 lakhs shall be paid before the Judicial Magistrate, Padamnabhapuram, which according to this Court, is not warranted. When the damage itself according to the respondent, is only Rs.20,000/-, imposing the condition to deposit Rs.2,00,000/- is onerous and the said condition has to be modified.

6. Considering the facts and circumstances of the case, the condition that the petitioners shall deposit Rs.20,000/- each is modified to the effect that all the accused in Crime No.672 of 2015 on the file of Thiruvattar Police Station, shall deposit Rs.20,000/- totally. The rest of the conditions imposed by the learned Sessions Judge shall stand unaltered. The petitioners shall comply with the conditions including the present one modified by this Court within a period of two weeks from the date of receipt of copy of this order.

7. With the above modification, this Criminal Original Petition is disposed of. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

To

1.The Sessions Judge, Kanaykumari Division at Nagercoil.

2.The Inspector of Police, Thiruvattar Police Station, Nagercoil, Kanayakumari District.

3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.K.Samidurai, Advocate, SR.No. 70788.

CrL.O.P. (MD) No.21342 of 2015

& M.P. (MD) No.1 of 2015

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