



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2015

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

CRL.O.P. (MD) .No.21692 of 2015and M.P. (MD) NO. 1 of 2015

1.Ravi

2.Appu

3.John Rose

4.Rajandran

5.Balakrishnan

6.Jayan @ Jayaraj

: Petitioners/Petitioners

Vs.

State represented through
The Inspector of Police,
Thiruvattar Police Station,
Nagercoil
Kanayakumari District.

: Respondent/Respondent

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the order passed in Crl.M.P.No.3183/2015 dated 29.10.2015 passed by the Sessions Court, Kanaykumari Division at Nagercoil and set aside the same in so far as it relates to condition NO.1 imposed in the order and pass such other and further suitable orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioners : Mr.K.Samidurai

For Respondent : Mr.A.P.Balasubramani

Government Advocate (Criminal Side)

ORDER

The petitioners have come forward with this petition under Section 482 of Code of Criminal Procedure, seeking to set aside the order passed in Crl.M.P.No.3183/2015 dated 29.10.2015 passed by the Sessions Court, Kanaykumari Division at Nagercoil in so far as it relates to condition No.1 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 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 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 CrI.M.P.No.3183 of 2015, while, the trial Court granting anticipatory bail to the petitioners, imposed some conditions. The first condition is as follows:

"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 petitioner relied upon the judgment reported in **2015(1) MLJ (CrI.) 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, Padmanabhapuram 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 petitioners shall deposit Rs.20,000/- totally. The rest of the conditions imposed by the Sessions Court shall stand unaltered. The petitioner 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(CO)

/True Copy/



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.

+1 cc to Mr.K.Samidurai, Advocate, SR No.65958

Order made in
CRL.O.P. (MD) .No.21692 of 2015
and M.P. (MD) No. 1 of 2015
Dated:-18.11.2015

RG.AN 26.11.2015 3P/5C