



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Thirtieth day of April Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP (MD) Nos.8306 and 7528 of 2015

S.KRISHNAMOORTHY

... PETITIONER/ACCUSED NO.1 IN
CRL.OP (MD) NO.8306/2015

M.SENTHIL

... PETITIONER/2ND ACCUSED IN
CRL.OP (MD) NO.7528/2015

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
CBCID, TIRUNELVELI,
CRIME NO.1/2015 ...RESPONDENT/ COMPLAINANT IN CRL.OP (MD) NO.8306/2015

THE STATE
REPRESENTED BY THE DEPUTY SUPERINTENDENT OF POLICE
CBCID,
TIRUNELVELI ..RESPONDENT/COMPLAINANT IN CRL.OP (MD) NO.7528/2015

For Petitioner : M/S.V.KATHIREVELU, SENIOR COUNSEL
FOR M/S.K.PRABHU Advocate in Crl.OP (MD) No.8306/2015

M/S.ARL.SUNDARESAN, Senior Counsel for
M/S.J.MANICKAM, Advocate in Crl.OP (MD) No.7528/2015
For Respondent : M/S.RAMACHANDRAN, Govt. Advocate (Crl. Side)
in both the Petitions

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as A1 and A2 in Crime No.1 of 2015 on the file of the respondent police, were arrested and remanded to judicial custody on 05.04.2015 for offences under Sections 120(b) and 306 IPC and Section 7 of Prevention of Corruption Act and seek bail.

2.The case of the prosecution is that the deceased was working as an Assistant Executive Engineer in the Agricultural Department at Tirunelveli and the accused have demanded bribe of Rs.12.25 lakhs for appointment of seven Drivers and due to the torture



given by the accused, he committed suicide by jumping in front of the moving train on 20.02.2015, at 12.30 hours.

3. Heard Mr.ARL.Sundaresan and Mr.V.Kathirvelu, learned Senior counsels for the petitioners in both the petitions and the learned Additional Public Prosecutor for the respondent State.

4. The learned Senior counsels submitted that the occurrence had taken place on 20.02.2015 and immediately, the wife of the deceased lodged a complaint and the same was registered by the Railway Police on 20.02.2015 and in the complaint, the de-facto complainant has specifically stated that the deceased was not sharing his official work with her and the investigation was pending with the Railway Police till 08.03.2015 and there was no progress and thereafter, as per the order of the Additional Director General of Police, the case was transferred on 07.03.2015 to the CBCID and the case was registered on 08.03.2015 and on 04.04.2015, the respondent has filed a report by altering the offence from 174 Cr.P.c. to 120(b), 306 of IPC and Section 7 of Prevention of Corruption Act.

5. The learned Senior counsels submitted that only in the subsequent statement given by the wife of the deceased, she has implicated these accused in this case. It is further submitted that the accused have appeared before the office of the CBCID at Chennai, on 04.04.2015 and thereafter, they were remanded to judicial custody on 05.04.2015. It is the contention of the learned Senior counsels that the accused never absconded and they voluntarily appeared before the respondent for giving a statement. The learned Senior counsels further submitted that in the alteration report, there is no specific statement implicating the accused and on a vague and bald allegations, the case is registered against these petitioners and the subsequent statement obtained from the brother-in-law of the deceased and the other witnesses created a suspicion over the case of the prosecution.

6. The learned Senior counsels further submitted that as per the statement of Ashokkumar, appointments were already made and thereafter the deceased had attended the enquiry on 13.02.2015 and on 14.02.2015 at Chennai and thereafter he met the District Collector on 16.02.2015 and at that time the deceased informed that appointments were not made due to the non clearance of the higher officials. The learned Senior counsels further submitted that even the statement of the District Collector Karunakaran does not specifically pin point the allegations made against these petitioners and that the deceased is not the selecting authority and admittedly the selection is made by a committee and therefore, the entire allegations are false.

7. The learned Senior counsels further submitted that the respondent police has obtained statement under Section 164 Cr.P.C. from the witnesses and the accused were also examined by the respondent police and therefore, the further custody of the petitioners is totally unwarranted. The learned Senior counsels have relied upon the judgment reported in **CDJ 2014 MHC 1460 [Mani vs. State]** in support of their contention by stating that unless the



accused have *mensrea* and there is no abetment to commit suicide, the accused cannot be made to face the trial under Section 306 IPC.

8. In the above said case, the daughter of the de-facto complainant, who is studying 10th standard had committed suicide, after leaving a suicidal note stating that the accused in that case, namely, Mani, had love affair with the deceased, but she did not like that and she wanted to pursue her studies to become a police officer to fulfil the wishes of her mother. Since her brother attempted to attack the accused, she committed suicide. On the above facts, this Court held that there is no *mensrea* and there was no abetment as per Section 107 of the Indian Penal Code and granted bail. I am of the considered view that the judgment relied on by the learned Senior counsels for the petitioners is not applicable to the facts of the present case.

9. The learned Additional Public Prosecutor filed a counter and submitted that the occurrence had taken place on 20.02.2015 and initially the case was registered under Section 174 Cr.P.C.; that thereafter the case was transferred to the CBCID on 08.03.2015; that the respondent has so far examined 89 witnesses and there are ample evidence to implicate these accused in this case. It is further submitted that the first accused had conspired with the 2nd accused for threatening the deceased to get bribe and the 2nd accused also threatened the deceased stating that unless he pays Rs.11 lakhs, he will not be allowed to retire from the job.

10. The learned Additional Public Prosecutor further submitted that the investigation is at crucial stage and so far six persons have given statement under Section 164 Cr.P.C. and three more persons have to be examined under Section 164 Cr.P.C.. It is further submitted that the prosecution has not received the statements given before the learned Magistrate and that the conversation between A1, A2 and the deceased have to be traced for proceeding with the case.

11. It is further submitted that the accused are influential persons and the first accused is a former Minister of Tamil Nadu and the 2nd accused is the Chief Engineer and if they are granted bail, they would tamper the witnesses.

12. Considering the serious allegations made against the accused and considering the submissions of the learned Additional Public Prosecutor, this Court is not inclined to grant bail to the petitioners and these petitions are dismissed.

sd/-
30/04/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

2. THE INSPECTOR OF POLICE
CBCID, TIRUNELVELI,

3. THE DEPUTY SUPERINTENDENT OF POLICE
CBCID,
TIRUNELVELI .

4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI

5. THE SUPERINTENDENT, CENTRAL JAIL, TIRUNELVELI

+1. CC to M/S.K.PRABHU Advocate SR.No.24151
+ONE CC TO M/S.J.MANICKAM, Advocate, SR.No.24983

RL/8C - 6/5/2015

ORDER
IN
CRL OP(MD) Nos.8306 and 7528 of 2015
Date :30/04/2015