



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.04.2015
CORAM:

THE HONOURABLE MR. JUSTICE S. NAGAMUTHU

WEB COPY

CRL.RC. (MD) No.179 of 2015

T.Pandi : Revision Petitioner/Petitioner/1st Accused
Vs.

Government of Tamil Nadu,
Rep by Inspector, Theni All Women Police Station,
Crime No.13/2013. : Respondent/Respondent/Respondent

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the orders passed in Cr.M.P.No.1402 of 2015 in C.C.No.618 of 2013, on the file of the Judicial Magistrate Court, Theni, dated 04.03.2015.

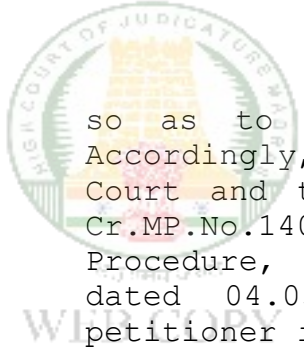
For Petitioner : Mr.K.R.Laxman
For Respondent : Mr.P.Kannithevan
Government Advocate [Criminal Side]

O R D E R

The petitioner is the accused in Crime No.13 of 2013, on the file of the Inspector of Police, All Women Police Station, for offences under Sections 498(A), 294(b), 506(i), 109 of the Indian Penal Code, r/w Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. Earlier, the petitioner filed Cr.M.P.No.2932 of 2014, before the learned Principal Sessions Judge, Theni, seeking Anticipatory Bail. By order dated 09.10.2014, the learned Sessions Judge, *inter alia* issued the following directions in Paragraph No.5 of the order.

"5. It is not in dispute that the case against the petitioner was charge sheeted and it is pending trial in C.C.No.618 of 2013 on the file of the Judicial Magistrate Court, Theni and the case is posted to 14.10.2014. Though he case was charge sheeted in the year 2013, the petitioner is seeking to surrender before the Court in the year 2014. Admittedly, the petitioner is employed in Singapore. Therefore, it is open to the Trial Court to impose necessary condition as it deems fit to ensure the presence of the petitioner at the trial Court. Hence, this petition is disposed of with a direction that the petition to surrender within 15 days from today before the Judicial Magistrate Court, Theni and bail application to be filed by him should be considered on the same day on merits."

2. The learned Judicial Magistrate, while granting Anticipatory Bail to the petitioner herein, imposed condition directing the petitioner to surrender his passport. In pursuance of the said order, the petitioner surrendered his passport before the learned Judicial Magistrate, Theni,



so as to prevent him from absconding by using the said passport. Accordingly, the petitioner surrendered his passport before the lower Court and the same is in its custody. While so, the petitioner filed Cr.MP.No.1402 of 2015 under section 451 of the Code of Criminal Procedure, for return of the said passport. The said petition, by order dated 04.03.2015, was dismissed. Challenging the said order, the petitioner is now before this Court with this Criminal Revision Case.

3. I have heard the learned counsel appearing for the petitioner, the learned Government Advocate [Criminal Side] appearing for the respondent and perused the records carefully.

4. Admittedly, in this case, the passport was not seized by the police and the same was voluntarily produced by the petitioner in compliance with the condition imposed by the learned Judicial Magistrate, Theni, while granting Anticipatory Bail to the petitioner. If the said condition is to be relaxed so as to return the passport to him, the course would have been for the petitioner is to file an appropriate petition before the learned Judicial Magistrate, Theni, seeking to relax the said condition and work out his remedy in accordance with law. But, curiously, he had filed the said petition under Section 451 of the Code of Criminal Procedure, seeking return of property.

5. Here, in this case, the passport is not a property relating to this case and the same was not produced before the Court as a property. It was produced in pursuance of the condition imposed by the learned Judicial Magistrate, Theni. Therefore, the said petition filed by the petitioner before the Lower Court under Section 451 of the Code of Criminal Procedure is not maintainable and thus, the present Criminal Revision Case is also not maintainable. The remedy for the petitioner, as of now, is to file an appropriate petition before the learned Judicial Magistrate, seeking to relax the condition imposed on the petitioner. If the learned Judicial Magistrate fails to relax the condition, the remedy for him lies elsewhere.

6. The Criminal Revision Case is dismissed with the above liberty.

Sd/-

Assistant Registrar(AS)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Judicial Magistrate Court, Theni.
 - 2.The Chief Judicial Magistrate. Theni District
 - 3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
 - 4.The Inspector of Police,Theni All Women Police Station.
- +1cc to MR.K.R.LAXMAN, ADVOCATE SR.NO.22729

ORDER MADE IN

CRL.RC.(MD)No.179 of 2015

DATED - 27.04.2015