

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.R.C.No.460 of 2016

and

Crl.M.P.No.3071 of 2016

1. Muthuraman

2. Gowdhaman

... Revision Petitioners/Petitioner

Vs.

State rep. by SHO,
Kalapet Police Station,
Pondicherry.

... Respondent/Respondent

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure to set aside the order passed in Cr.M.P.No.1618 of 2015, dated 07.10.2010 on the file of the learned Principal Sessions Judge, Puducherry.

For Petitioner : Mr.Prakash Adiapadam

For respondent : Mr.J.Kumar

Government Advocate (Pudicherry)

O R D E R

Aggrieved by the Order of the learned Principal Sessions Judge, Puducherry, in Crl.M.P.No.1618 of 2015 on 07.10.2015, where under the bail granted to the revision petitioners in Crl.M.P.No.1471 of 2015 dated 14.9.2015 has been cancelled, this revision has been directed by A4 and A5.

2. The Inspector of Police, Kalapet Police station registered a case in Cr.No.57 of 2015 as against the petitioners and others for an offence under section 307 IPC and certain other IPC offences. On 14.9.2015, the learned Principal Sessions Judge, Puducherry granted them bail imposing certain conditions including a condition to appear before the SHO, Yanam daily at 10 a.m. and 5.30 p.m. until further orders. The petitioners have availed of the bail orders and came out of Jail.

3. It seems that after coming out of jail they have forgotten Kalapet police and Yanam police. Under the circumstances, Kalapet Police filed CrI.M.P.No.1618 of 2015 to cancel their bail under section 439(2) Cr.P.C. By the impugned Order dated 07.10.2015, the learned Principal Sessions Judge, Puducherry cancelled their bail.

4. The learned counsel for the petitioners would contend that without giving them any opportunity, the Court has cancelled their bail.

5. However, according to the learned Government Advocate, Puducherry, every efforts have been taken to serve the notices upon them. But it was thwarted. Under the circumstances, their bail was cancelled.

6. In the light of the submissions of both sides, I have perused the impugned bail cancellation Order.

7. Actually notices in the bail cancellation petition were not served upon the petitioners. And the notices were returned unserved. There may be some justifiable, acceptable or plausible reason as to their non-compliance. In such circumstances, without hearing them, the learned Principal Sessions Judge, Puducherry holding them that they have willfully flouted the bail condition is not in accordance with law. Basic principles of "Audi Alteram Partem" (hear before condemn) has not been followed.

8. In the bail cancellation petition, some effective concrete steps should have been taken to serve the notices upon the accused. If service is held sufficient and no one is appeared for the accused, then before cancelling their bail, a legal aid counsel should have been engaged to represent them and thereafter, orders should have been passed. It is the spirit of Article 21, 22 Constitution of India and the decision in Menaka Gandhi Vs. Union of India (A.I.R. 1978 SC 597). Thus, our interference is called for.

9. Ordered as under :-

(1) The bail cancellation Order passed in CrI.M.P.No.1618 of 2015 dated 07.10.2015 cancelling the bail order passed in CrI.M.P.No.1471 of 2015 dated 14.09.2015 is cancelled.

(2) Consequently, the bail Order passed in CrI.M.P.No.1471 of 2015 dated 14.09.2015 is revived.

(3) The learned Principal Sessions Judge, Puducherry will restore CrI.M.P.No.1618 of 2015 to his file.

(4) Both sides shall appear before the said Judge on 06.04.2015.

(5) The said Judge shall dispose of CrI.M.P.No.1618 of 2015 on merits after hearing both sides.

(6) Mr.Prakash Adiyapadam, the counsel on record for A4 and A5 shall inform them of the said date.

10. Accordingly, this Criminal Revision is disposed of. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

vrc

To,

1. The Principal Sessions Judge,
Puducherry.
2. The Station House Officer,
Yanam Police Station,
Puducherry
3. The Station House Officer,
Kalapet Police Station,
Puducherry.
4. The Government Advocate,
Union Territory of Puducherry,
High Court,
Madras.

सत्यमेव जयते

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CrI.M.P.No.3071 of 2016

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