

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

(Orders Reserved on : 11.07.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.300 of 2016

and

Crl.M.P.No.2125 of 2016

N.Thirukumar ... Petitioner/Accused No.2

Vs.

1. State Rep. by
The Inspector of Police,
J-7, Velachery Police Station,
Chennai.
(Crime No.2637 of 2015) ... Respondent/Complainant

2. Venkateswaralu ... Respondent/De facto
Complainant

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, praying to set aside the order passed by the learned I Additional Sessions Judge, Full Additional Charge : Principal Sessions Court, Chennai, in Crl.M.P.No.17434 of 2015, dated 16.02.2016.

For Petitioner : Mr.C.D.Johnson

For R-1 : Mr.M.Mohammed Riyaz,
Government Advocate (Crl.Side)

For R-2 : Mr.C.Prabakaran

ORDER

This Criminal Revision Case is directed against the order dated 16.02.2016 passed by the learned I Additional Sessions Judge, Full Additional Charge : Principal Sessions Court, Chennai, in Crl.M.P.No.17434 of 2015, allowing the petition filed by the second respondent herein for cancellation of bail already granted to the revision petitioner/A.2.

2. The learned counsel for the revision petitioner would mainly contend that the second respondent herein/de facto complainant is a practicing advocate in the High Court of Madras and in all subordinate Courts. The allegation in the complaint is that the second respondent/de facto complainant's daughter viz, Mrs.Sunandha was forced to commit suicide

having unable to sustain the continued tortures both physically and mentally by the petitioner and the other accused. The daughter of the de facto complainant was employed with IDBI Bank at Coimbatore and she stood as guarantor for the amount borrowed by the wife of the de facto complainant from the first accused by name Sivakumar and his Partner/A.2 namely Thirukumar. The further allegation in the complaint is that even after the payment of the entire principal amount of Rs.18.00 lakhs and interest thereupon totaling to a sum of Rs.30.05 lakhs, the accused have demanded further payment of Rs.15.50 lakhs towards their usurious interest to return the title deeds of property and the blank signed documents, cheques, promissory note back to the de facto complainant's daughter. The accused were threatening the de facto complainant's daughter to spoil her character in her office, kidnap her children and kill them. The daughter of the de facto complainant has given a complaint to Madipakkam Police station on 06.04.2015 under CSR No.247 of 2015 and also caused a legal notice to the accused. Thereafter, mediation took place between the parties on 02.07.2015 and the de facto complainant's daughter had committed suicide on 03.07.2015 by hanging herself in the fan with a silk towel. On coming to know about the suicide of his daughter, the de facto complainant had preferred a complaint before the first respondent police, who registered the same in Crime No.2637 of 2015 for the offences under Sections 306 IPC and Section 4(b) of Women Harassment Act, 1988.

3. The learned counsel for the petitioner further contended that the first accused was arrested and he was in jail for more than 40 days and thereafter, he was granted bail by this Court in Crl.O.P.No.21650 of 2015, dated 31.08.2015. The learned counsel for the petitioner also submitted that though the petitioner herein had preferred an anticipatory bail petition in Crl.O.P.No.21545 of 2015, it was dismissed by this Court on 11.09.2015. After that, the petitioner herein had surrendered before the first respondent police on 28.09.2015 and he was remanded to judicial custody on 28.09.2015. Thereafter, the petitioner herein/A.2 had preferred a bail petition in Crl.M.P.No.16618 of 2015 and the learned Principal District and Sessions Judge, Chennai, by order dated 29.09.2015, granted bail to the petitioner herein. It is further submitted that the second respondent herein/de facto complainant has filed a petition in Crl.M.P.No.17434 of 2015 before the learned I Additional Sessions Judge, for canceling the bail granted to the petitioner herein/A.2 and the said petition was erroneously allowed by the learned I Additional Sessions Judge and as against the said order, the present criminal revision case is preferred by the petitioner herein/A.2 before this Court. It is also submitted by the learned counsel for the petitioner that the trial Court, without considering the principles laid down by the Hon'ble Supreme Court in the cases of (1) Dolat Ram and others Vs. State of Haryana reported in (1995) 1 Supreme Court Cases 349;

(2) Mehaboob Dawood Shaik Vs. State of Maharashtra reported in (2004) 2 Supreme Court Cases 362 and (3) L.Krishna Reddy Vs. State and another reported in (2006)2 L.W. (Crl.) 983, erroneously canceled the bail already granted to the revision petitioner/A.2 and hence, he prayed that the order of the trial Court has to be set aside and the criminal revision case has to be allowed.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent would contend that the trial Court, after considering the entire facts and circumstances of the case, correctly passed an order cancelling the bail already granted to the petitioner and there is no infirmity or illegality in the order passed by the trial Court and hence, he prayed that the Criminal Revision Case has to be dismissed.

5. The learned counsel appearing for the second respondent would mainly contend that in the bail petition, the petitioner/A.2 has mentioned that he is in custody from 28.08.2015 instead of 28.09.2015 as if he is in custody for more than one month. Since the revision petitioner/A.2 has obtained the bail order by suppressing the material fact, that is, the actual date of arrest and by giving false date of arrest, the trial Court has cancelled the bail already granted to the revision petitioner/A.2 and hence, the learned counsel prayed that the Criminal Revision Case has to be dismissed.

6. This Court has considered the submissions made by the learned counsel on either side and perused the entire records.

7. On a perusal of the records, it is seen that the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.16618 of 2015, on 06.10.2015, has granted bail to the revision petitioner herein/A.2. In paragraph No.4 of the bail order dated 06.10.2015, it is stated as follows:-

"7. Learned counsel for the Petitioner would submit that the petitioner was not responsible for the death of the victim, that he did not in any manner instigated or aided the death of the victim. It is also pointed out that the main accused A1 was granted bail by the Hon'ble High Court in Crl.O.P.No.21650 of 2015, dated 31.08.2015, that the petitioner has been in custody for 40 days and that therefore, he may be released on bail.

8. In this case, the revision petitioner/A.2 was granted bail, after 40 days from the date of incarceration. The bail was granted to the revision petitioner/A.2 by the trial Court on 06.10.2015 and he was in custody from 28.09.2015 to 06.10.2015. It is not denied on the side of the revision petitioner that the first accused was granted bail by this Court in Crl.O.P.No.21650 of 2015, dated 31.08.2015. It is also not denied by the revision petitioner that in the bail

petition, he had mentioned the date of arrest as 28.08.2015. The learned Principal Sessions Judge, while granting bail to the revision petitioner/A.2, it is stated as follows:-

"First accused was granted bail by the High Court after 40 days of incarceration. The petitioner herein has been in custody for 40 days. It is not said that the petitioner cannot claim party with the first accused. Under these circumstances, I am inclined to grant bail to the petitioner, subject to condition."

9. Further, in this case, on a perusal of records, it is seen that the bail order was obtained by the petitioner herein/A.2 by suppressing the fact i.e., mentioning the date of arrest as 28.08.2015 instead of 28.09.2015. Further, the trial Court, after analysing the entire materials, correctly passed an order allowing the petition filed by the second respondent herein/de facto complainant and cancelled the bail already granted to the revision petitioner/A.2.

10. In view of the above facts and circumstances of the case, this Court is of the considered view that there is no infirmity or illegality in the order passed by the trial Court. This Court finds no reason to interfere with the order passed by the learned I Additional Sessions Judge, Chennai, in CrI.M.P.No.17434 of 2015, on 16.02.2016, which does not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1. The I Additional Sessions Judge,
Full Additional Charge : Principal Sessions Court,
Chennai.
2. The Inspector of Police,
J-7, Velachery Police Station, Chennai.
- 3.The Superintendent, Central Prison, PUzhal, Chennai.
3. The Public Prosecutor, High Court, Madras.

+1 cc to M/s.C.Prabakaran, advocate,sr.61071

+1 cc to M/s.G.D.Johnson,advocate,sr.60925.

cp(co)

krd 14/12