

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.437 of 2016
and
Crl.M.P.No.2916 of 2016

1. M.Sekar
2. P.Anandan

... Petitioners/A.1 and A.2

Vs.

1. Gowri ... 1st Respondent/De facto complainant
2. State by the Inspector of Police,
R8, Vadapalani Police Station,
Chennai City Police, Chennai.
(Crime No.2290 of 2015) ... 2nd Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 (1) and 401 of the Code of Criminal Procedure, to call for the entire records in connection with Crl.M.P.No.19017 of 2015 in Crl.M.P.No.14399 of 2015 on the file of the learned Principal Sessions Judge, City Civil Court, Chennai, and set aside the order passed by the learned Principal Sessions Judge, City Civil Court, Chennai, dated 05.03.2016 in Crl.M.P.No.19017 of 2015 cancelling the bail granted by the learned Principal Sessions Judge, City Civil Court, Chennai, in Crl.M.P.No.14399 of 2015, dated 31.08.2015.

For Petitioners: Mr.V.Paarthiban
For R-1 : Mr.G.Krishnamurthy
For R-2 : Mr.M.Mohamed Riyaz,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is filed praying to set aside the order dated 05.03.2016 passed by the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, in Crl.M.P.No.19017 of 2015, cancelling the bail granted by the learned Principal Sessions Judge, City Civil Court, Chennai, in Crl.M.P.No.14399 of 2015, dated 31.08.2015.

2. In this case, the petitioners were granted bail by the learned Principal Sessions Judge, City Civil Court, Chennai, in Crl.M.P.No.14399 of 2015, on 31.08.2015. Since the petitioners have come forward to pay the amount within a period of one month to the

de facto complainant, the bail was granted to the petitioners. Subsequently, since the petitioners have failed to fulfill the undertaking given before the Court, the de facto complainant has filed a petition in CrI.M.P.No.19017 of 2015 for cancelling the bail granted to the petitioners and the said petition was allowed by the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, on 05.03.2016. As against the said order, the present criminal revision case is filed before this Court.

3. The learned counsel appearing for the petitioners would contend that at the time of granting bail to the petitioners, the learned Principal Sessions Judge, has not imposed any condition for paying the amount to the de facto complainant and hence, the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, ought to have dismissed the petition filed by the de facto complainant for cancellation of bail. But, the learned I Additional Sessions Judge, without appreciation of facts, erroneously allowed the petition filed for cancellation of bail. Hence, the order dated 05.03.2016 passed by the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, in CrI.M.P.No.19017 of 2015 may be set aside and the criminal revision case may be allowed.

4. The learned counsel appearing for the first respondent and the learned Government Advocate (CrI.Side) appearing for the second respondent would contend that only based on the undertaking given by the petitioners to pay the entire amount to the de facto complainant, the learned Principal Sessions Judge has granted bail to the petitioners, but the petitioners have not fulfilled the undertaking given by them. Hence, the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, cancelled the bail. There is no illegality or infirmity in the order passed by the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, and hence, the learned counsel for the respondents prayed that the criminal revision case may be dismissed.

5. This Court heard the submissions made by the learned counsel appearing for the petitioners and the learned counsel appearing for the first respondent and the learned Government Advocate (CrI.Side) appearing for the second respondent and perused the records.

6. In paragraph No.7 of the bail order dated 31.08.2015, it is stated as follows:-

"7. Petitioners have been in custody for the past 15 days, that the allegation against the petitioners is that they have failed to return the amount payable to the de facto complainant. Now, the petitioners have come forward to pay the amount within one month. Therefore, this Court is of the view that further incarceration of the petitioners may not be necessary to complete the investigation, I am inclined to grant bail to the petitioners subject to the condition."

7. On a reading of the above order, it is seen that on the side of the petitioners, it is represented that the petitioners are ready to pay the amount within one month. But since the amount was not paid as stated above, the first respondent herein/de facto complainant has filed a petition in Crl.M.P.No.19017 of 2015 for cancellation of bail and the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, at paragraph No.10, has stated as follows:-

"10. From the reading of the aforesaid order, it is clear that the respondents 1 and 2 herein gave undertaking that they will pay the balance amount of Rs.18 lakhs within one month. Only on considering the said representation, this Court has granted bail to the respondents 1 and 2. Even though the respondents 1 and 2 came out on bail, as per the order passed by this Court in Crl.M.P.No.14399 of 2015, dated 31.08.2015, so far, they did not come forward to pay any amount to the petitioner herein. So, the aforesaid decision will squarely apply to the facts of this case. Therefore, the bail, which was granted by this Court to the respondents 1 and 2 in Crl.M.P.No.14399 of 2015, dated 31.08.2015 has to be cancelled. Accordingly, this point is answered."

8. At the time of granting bail, the petitioners have come forward to pay the entire amount to the de facto complainant. But, after granting bail, since the petitioners have failed to pay the amount as per the undertaking given by them, the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, correctly cancelled the bail granted to the petitioners. There is no infirmity or illegality in the order passed by the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, in Crl.M.P.No.19017 of 2015. This Court finds no reason to interfere with the order passed by the learned I Additional Sessions Judge, Principal Sessions Court, Chennai, which does not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed.

9. In the result, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The I Additional Sessions Judge,
Principal Sessions Court, Chennai.

2. The Principal Sessions Judge,
City Civil Court, Chennai.

3. The Inspector of Police,
R8, Vadapalani Police Station,
Chennai City Police, Chennai.

4. The Public Prosecutor,
High Court, Madras.

+1 cc to Dr.G.Krishnamoorthy, Advocate, sr.38087.

svi(co)
krd 26/7

Crl.R.C.No.437 of 2016



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