

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS
Crl.O.P. No.25664 of 2015

V.Narayana

.. Petitioner/defacto
complainant

vs.

1. State of Tamil Nadu rep.by
the Inspector of Police
R-2, Kodambakkam Police
Station, Kodambakkam.

2. V.Jayakumar

3. Mrs.J.Priya @ Esther

.. Respondents

Prayer: Petition filed under Section 439(2) of the Code of Criminal Procedure Code, to cancel the anticipatory bail order passed by this Court in Crl.O.P.No.5363 of 2015 dated 06.03.2015.

For Petitioner : Mr.R.Karunagaran

For Respondents: Mr.P.Govindarajan

Additional Public Prosecutor
for R1

Mr.Ramesh Kumar Chopra
for RR2 and 3

O R D E R

This petition is by the defacto complainant to cancel the order of this Court granting anticipatory bail to respondent Nos.2 and 3 in Crl.O.P.No.5363 of 2015 on 06.03.2015.

2. Petitioner wants cancellation of anticipatory bail on the ground that the amount promised by them was not paid and even now, investigation not completed.

3. Learned counsel for the respondent Nos.2 and 3/accused submitted that respondents 2 and 3 have complied with all the conditions and they have not misused their liberty. Actually, what the petitioner now wants is sending them to jail.

4. Heard the learned Additional Public Prosecutor for R1.

5. There is no word as cancellation of bail in the Cr.P.C. It will be a direction for re-arrest and sending the accused to jail. So this power must be exercised very carefully. Arrest is antithesis of civil liberty [See Arnesh Kumar vs. State of Bihar and another [2014 (8) Scale 250]. A bail order passed under Section 439 Cr.P.C or anticipatory bail order passed under Section 438 Cr.P.C either by the Sessions Court or by this Court cannot be simply cancelled for mere asking. It will be cancelled only on sound principles.

6. The principles are repeating similar occurrence, intimidating the witnesses, interfering with investigation, trying to flee away from justice or the jurisdiction of the Court. But bail or anticipatory bail cannot be cancelled simply because the complainant does not like the accused to move as he likes or like his face.

7. Non payment of a promised amount cannot be a ground to cancel bail and send the accused to jail. Right to a civil remedy cannot give right to a complainant to send the accused to jail.

8. Now in this case, no valid ground has been established. It is up to the petitioner/complainant to work out his remedy in a civil court and it is for the respondents/accused to face it. That will not come under criminal law. That is entirely a different matter.

9. In the circumstances, this petition fails and it is dismissed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

vj2

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.15

2. The Chief Metropolitan Magistrate
Egmore (For inofrmation)

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3. The Additional Public Prosecutor,
Madras.104
4. The Inspector of Police,
R-2, Kodambakkam Police Station,
Kodambakkam,
Chennai.

1 cc to M/s. R. Karunagaran, Advocate, Sr. 11582

1 cc to Mr.Ramesh Kumar Chopra, Advocate, Sr. 2828 (23/3/2016)

Crl.O.P. No.25664 of 2015

CTK (CO)
kk 3/3



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