

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.901 of 2016
and
M.P.No.6833 of 2016

S.Mahesh ... Petitioner/Petitioner

Vs.

State rep. by
Inspector of Police,
Kamanaickenpalayam Police Station,
Tirupur.
Crime No.199 of 2016. ... Respondent/Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, praying to set aside the order dated 09.06.2016 passed in C.M.P.No.606 of 2016 in C.M.P.No.520 of 2016 by the learned Principal Sessions Judge, Tirupur.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : Mrs.M.F.Shabana,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order dated 09.06.2016 passed by the learned Principal Sessions Judge, Tirupur, in Crl.M.P.No.606 of 2016 in Crl.M.P.No.520 of 2016.

2. The learned counsel for the petitioner would mainly contend that the trial Court, after hearing the petitioner and the learned Government Advocate, granted anticipatory bail to the revision petitioner/accused in Crl.M.P.No.520 of 2016, on 12.05.2016 with a condition that the revision petitioner/accused shall execute a bond for Rs.10,000/- with two sureties each like sum and with a further condition that the revision petitioner/accused shall appear before the respondent police daily at 10.00 a.m. for a period of one month and the petitioner shall not abscond at the time of interrogation and

shall not tamper the witnesses pending investigation. The petitioner regularly complied with the conditions imposed by the trial Court. Subsequently, the Investigating Officer has filed a petition in CrI.M.P.No.606 of 2016 to cancel the anticipatory bail already granted to the petitioner stating that the petitioner was not co-operated for investigation by the police and also he is threatening the accused. It is further contended that the trial Court, without considering the arguments of the revision petitioner and without giving opportunity to the revision petitioner, erroneously cancelled the anticipatory bail already granted to the revision petitioner/accused. Further, the revision petitioner has not given any chance to put forth his contention in the petition filed for cancelling the bail. Hence, the order of the trial Court has to be set aside and the criminal revision case has to be allowed.

3. The learned Government Advocate (CrI.Side) would contend that in this case, the victim was died and subsequently, after registering the FIR, the case was altered to Sections 147, 148, 452, 324, 294(b), 307 IPC r/w.302 IPC r/w.120(b) IPC. Hence, the anticipatory bail already granted would have no effect at all and the petitioner is liable for arrest or he has to get anticipatory bail for the altered offences under Sections 147, 148, 452, 324, 294(b), 307 IPC r/w.302 IPC r/w.120(b) IPC. Since the case was altered to Sections 302 IPC along with other offences, the trial Court allowed the petition filed by the prosecution for cancelling the bail and cancelled the anticipatory bail granted to the accused. Therefore, there is no illegality or infirmity in the order passed by the trial Court and hence, the criminal revision case has to be dismissed.

4. In the grounds of revision, it was stated that the de facto complainant's father viz., Narayanasamy, who is an injured in this case, died on 14.05.2016 during the treatment. It is an admitted fact that after the death of the said Narayanasamy, the case was altered to Sections 147, 148, 452, 324, 294(b), 307 IPC r/w.302 IPC r/w.120(b) IPC. Hence, the petitioner cannot enjoy the bail granted for the offences under Sections 147, 148, 452, 324, 294(b) and 307 IPC, which are lessor offences than the offence under Section 302 IPC. Hence, the anticipatory bail granted to the petitioner for the said offences under Sections 147, 148, 452, 324, 294(b) and 307 IPC would have no effect, since the offences were subsequently altered to Sections 302 IPC along with other offences. Further, in view of the fact that the case was altered to Section 302 IPC i.e., greivous offence, the anticipatory bail granted to the petitioner is deemed to be cancelled and the petitioner is liable to be arrested by the Investigating Officer.

5. On the side of the prosecution, they have filed a petition for cancellation of anticipatory bail already granted to the petitioner under Sections 147, 148, 452, 324, 294(b) and 307 IPC, and the trial Court, after considering the offences, which were subsequently altered to Sections 302 IPC and other offences, cancelled the anticipatory bail already granted to the revision petitioner/accused. Hence, this Court is of the considered view that there is no infirmity or illegality in the order passed by the trial Court and this Court finds no reason to interfere with the order of the trial Court which does not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Jrl

To

- 1.The Principal Sessions Judge,
Tirupur.
- 2.The Inspector of Police,
Kamanaickenpalayam Police Station,
Tirupur.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.N.Balakrishnan, Advocate, S.R.No.53998

Crl.R.C.No.901 of 2016

KK(CO)
CA(07/10/2016)