

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.7191 of 2015

Kalaimani @ Subbathal

Petitioner

vs.

1 State represented by  
The Inspector of Police  
R-4, Pondy Bazaar Police Station  
Chennai

2 G. Rajagopal

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the XVII Metropolitan Magistrate to accept the substitute document of older one which was furnished at the time of standing as surety in connection with Crime No.87 of 2011 on the file of the first respondent.

For petitioner Mr. R. Kamaraj  
For R1 Mr.C. Emalias  
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking a direction to the XVII Metropolitan Magistrate, Saidapet, Chennai, to accept the substitute document of older one which was furnished at the time of standing as surety in connection with Crime No.87 of 2011 on the file of the first respondent.

2 Heard the learned counsel for the petitioner and the learned counsel for the first respondent.

3 On the complaint lodged by Tata Motors and Finance Ltd., the first respondent police registered a case in Crime No.87 of 2011 for offences under Section 408 and 477-A of the Indian Penal Code against the second respondent. The crux of the allegation in the F.I.R. is that the second respondent was working as Operations Manager in Tata Motors and Finance Limited and that he defalcated some amounts. The second respondent filed Crl.O.P. No. 20012 of 2011 for anticipatory bail and this Court, by order dated 24.08.2011, granted relief on the following conditions:

"6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned XXIII Metropolitan Magistrate, Saidapet, Chennai - 15, subject to the following conditions:

i The petitioner shall deposit a title deed of immovable property security to the tune of Rs.2,00,000/- to the credit of Crime No.87 of 2011 on the file of learned XXIII Metropolitan Magistrate, Saidapet, Chennai; and

ii the petitioner shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen thousand only) with two sureties each for like sum to the satisfaction of the learned Magistrate concerned or to the satisfaction of the respondent police; and

the petitioner shall report before the respondent police daily at 8.00 a.m. for a period of two weeks and thereafter, as and when required for interrogation."

4 Pursuant to the order of anticipatory bail granted by this Court, the petitioner, who is the mother of Rajagopal came forward to stand as surety and submitted the original of Document No.3538 of 1994 standing in her name. Now, the petitioner wants return of the documents on the ground that she wants to avail loan for construction purpose. The petitioner filed an application for return of document and substitution of it by another document in M.P. No.2288 of 2014, which was dismissed on 12.08.2014 by the XVII Metropolitan Magistrate Court, Saidapet, Chennai, challenging which, the petitioner has filed the present petition.

5 This Court wanted to know the stage of investigation in Crime No.87 of 2011 and therefore, directed the learned Additional Public Prosecutor to get instruction from the respondent police. Today, Mr. C. Nesanathan, Sub-Inspector of Police, R-4, Soundara Pandian Angadi P.S. is present and on instructions, the learned Additional Public Prosecutor submits that the investigation is still pending.

6 This Court called for the case diary and found that except the F.I.R., there is no material worth its salt in it. On account of the lethargic attitude on the part of the police, the petitioner, who stood surety for her son, cannot be made to suffer.

In the result, this Criminal Original Petition is allowed. The learned XVII Metropolitan Magistrate is directed to take a photocopy of Document No.3538 of 1994 and after retaining the same, return the original under proper acknowledgment and identification to the petitioner within a period of one month from the date of receipt of a copy of this order.

cad

-s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1 The Inspector of Police  
R-4, Pondy Bazaar Police Station  
Chennai

2 The XVII Metropolitan Magistrate  
Saidapet  
Chennai

3 The Public Prosecutor  
High Court of Madras  
Chennai 600 104

+ 1 cc to M/s.R.Kamaraj, Advocate SR 34432

ppa (co)  
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