

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.OP.No.23457 of 2016

Dhamodharan

..

Petitioner

Vs

State Rep. by

The Station House Officer,
Nallanpillaipetral Police Station,
Villupuram District.
Crime No.44 of 2016

..

Respondent

Prayer: Criminal Original Petition filed under Section 439(1)(b) of Cr.P.C. praying to modify the order passed suitably in CMP.No.3669 of 2016 dated 16.09.2016 by the Judicial Magistrate, Gingee, so as to enable the petitioner to comply the order.

For Petitioner : Mr.R.Sreedhar

For Respondent : Mr.C.Emalias

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to modify the order passed by the Judicial Magistrate, Gingee in CMP.No.3669 of 2016 dated 16.09.2016.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The petitioner was arrested on 02.05.2016 in Crime No.44 of 2016 for the offences under Sections 465, 468, 471, 408 & 109 IPC. He was granted bail by this Court in Crl.OP.No.15283 of 2016 on 22.07.2016 on certain conditions, which he was not able to comply with and therefore, the bail petition was dismissed by this Court on 29.08.2016.

4. It may be necessary to state here that the petitioner had agreed to deposit Rs.5,00,000/-, which has been recorded by this Court in the order dated 22.07.2016. Thereafter, the petitioner has been released on compulsory bail under Section 167(2) Cr.P.C. on 16.09.2016 in CMP.No.3669 of 2016 by the learned Judicial Magistrate, Gingee, on the failure of the prosecution to file the charge sheet within the stipulated time. While granting bail, the learned Judicial Magistrate, Gingee has imposed certain conditions, of which conditions nos. (i) & (ii) reads as follows:

"i) The petitioner shall deposit the title deed of the property worth about Rs.50 lakhs and execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Gingee.

ii) The petitioner shall deposit a sum of Rs.5,00,000/- (Rupees five lakhs only), after coming out of the jail, to the credit of Crime No.44 of 2016, within a period of four weeks from today, i.e., on or before 14.10.2016."

5. This petition has been filed to modify the aforesaid conditions on the ground that the conditions are indeed onerous.

6. Taking into consideration the facts and circumstances of the case, this Court modifies the condition as follows :

"i) The petitioner shall be released on bail on he executing a bond for Rs.50,000/- with two sureties to the satisfaction of the learned Judicial Magistrate, Gingee.

ii) The petitioner shall deposit a sum of Rs.5,00,000/- (Rupees five lakhs only), as a pre-condition to the credit of Crime No.44 of 2016 and only thereafter, he will be entitled to be released on bail. On such deposit, the learned Judicial Magistrate, Gingee, is directed to re-deposit the amount in a fixed deposit account in any Nationalised Bank, so that it carries interest and the disbursal of the same can be done by the trial Court at the time of conclusion of the trial.

iii) On breach of any of the aforesaid conditions, the learned Judicial Magistrate, Gingee, is entitled to take appropriate action against the petitioner in accordance with law, as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)AIR SCW 5560].

iv) If the petitioner absconds during trial, it is open to file a fresh case against him under Section 229-A of IPC.

7. Except for the above, rest of the conditions imposed by the learned Judicial Magistrate, Gingee, remain the same.

With the above modifications and direction, this Criminal Original Petition is ordered.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Gingee.

2.The Station House Officer,
Nallanpillaipetral Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Sreedhar Advocate Sr.59747

Cr1.OP.No.23457 of 2016

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srg 24/10/2016