

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Crl.O.P.No.7755 of 2016

K.C. Saramma

... Petitioner/Intervenor/
Defacto Complainant

vs. '

1. Sherly Joseph Issac
2. State, represented by
Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai 600 087.

... Respondents

Criminal Original Petition filed under Section 439(2) of Cr.P.C., praying to cancel the pre arrest bail granted in Crl.O.P.No.17316 of 2015 dated 24.07.2015.

For Petitioner : Mr.K.Premkumar

For Respondent : Mr.M.Venugopal for R1.
Mr. R.Iyyapparaj
Govt. Advocate (Crl.side) (R2)

O R D E R

This petition is filed seeking to cancel the pre arrest bail granted in Crl.O.P.No.17316 of 2015, dated 24.07.2015.

2. The 2nd respondent herein has moved an anticipatory bail application before this Court in Crl.O.P.No.17316 of 2015 and on 24.7.2015, at request of learned counsel appearing for accused and defacto complainant therein, this Court referred the matter to be posted before the Mediation and Conciliation Centre for amicable settlement and further directed the matter to be sent back to this Court if no settlement is arrived at and till the mediation proceedings is over, the petitioner shall not be arrested.

3. Learned counsel for the petitioner submitted that in pursuance of the mediation conducted among the parties on several dates, a Mediation Agreement was entered into between the parties on 4.8.2015 and the same was recorded by this Court on 13.8.2015 and as per the Mediation agreement, the 1st respondent herein has agreed to pay 50% of the agreed amount to the defacto complainants during November 2015 and the balance 50% of the agreed amount to be paid by them

during December 2015 and on receipt of the amounts from the 1st respondent, the petitioner herein/defacto complainant has agreed to withdraw her complaint filed against the 1st respondent before the 2nd respondent herein viz., the Inspector of Police, R-9, Valasaravakkam Police Station.

4. He would further submit that pursuant to mediation agreement, when the 1st respondent was contacted for payment of the amounts on several dates during the months of November and December 2015 to discharge the obligations arising out of the mediation agreement, she simply postponed the dates for the payment of the agreed amounts and sought time till the end of January 2016 to pay the entire amount in one lump sum, and subsequently she failed to keep up her promises without paying even a single pie till date. Thus the 1st respondent herein has deliberately, wantonly and wilfully disobeyed the order of this court and violated the terms of the Mediation Agreement and now she is attempting to flee from India.

5. He would further vehemently contend that without paying even a single pie, now she has filed a counter stating in paragraphs 18 and 19 that she had issued two cheques for repayment and the petitioner may recover the monies by initiating proceedings under Negotiable Instruments Act and further seeks six months time for making payment. As stated above in the counter, the 1st respondent never issued any cheque, which is utterly a false statement. Thus, he prayed for cancellation of anticipatory bail granted to the 1st respondent.

6. I have heard the submissions made by the learned counsel for the petitioner, learned counsel for 1st respondent and the learned Government Advocate (crl.side) appearing for 2nd respondent.

7. During the mediation proceedings, the accused has agreed to settle the claim and agreed that the matter may be referred to Mediation and the issue got resolved before the mediators and recording the mediation agreement dated 4.8.2015, the issue was closed and based on that, on 13.8.2015, this Court disposed of CrI.O.P.No.17316 of 2015. Admittedly, as contended by the learned counsel for petitioner, till date, not even a single pie has been paid by the 1st respondent to the defacto complainant and thereby she has flouted the orders of the Court.

8. Further, when a cancellation of bail petition is filed, a counter has been filed by the 1st respondent and the relevant paragraphs 18 and 19 of the counter affidavit is extracted hereunder;

<https://hcservices.ecourts.gov.in/hcservices/> 18. I state that I had issued two cheques for repayment and had the petitioner wanted to recover the monies she could have initiated

proceedings under Negotiable Instruments Act, but the petitioner's only intention is to have me jailed for personal reasons.

19. I state that I require at least six months time to make payment. I am making efforts to get her funds and settle the petitioner. If I am jailed even for enquiry purpose, no person would do business with me or lend me money as the same would destroy my fair reputation, which in turn would only cause further loss to the petitioner."

9. From the aforesaid averments, it is very clear that the intention of the accused is to drive the petitioner from pillar to post and not to give quietus to the issue and the conduct of the accused is deprecated and she is trying to play fraud on everyone. Hence, accepting the contention of the learned counsel for the petitioner, this Court allows this petition for cancellation of bail.

10. Further, for wasting the valuable time of this Court, a cost of Rs.25,000/- (Rupees twenty five thousand only) is imposed on the accused payable to SCHIZOPHRENIA RESEARCH FOUNDATION (INDIA), R/7A, NORTH MAIN ROAD, ANNA NAGAR WEST EXTENSION, CHENNAI 600 101 (Phone No.044-2615 1073/3971) within a period of four weeks from today.

11. As this petition is allowed, the 2nd respondent is directed to act as per law.

msr

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Valasaravakkam Police Station,
Chennai.

2. The Public Prosecutor,
High Court, Chennai 104.

1 cc to M/s.M.Venugopal, Advocate, sr.29625

Cr1.O.P.No.7755 of 2016