



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2016

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THE HON'BLE MR.JUSTICE S.VAIDYANATHANCrl.O.P.(MD) No.20854 of 2016

Kambeer Singh Sowdri

... Petitioner

Vs.

State of Tamil Nadu,
Through the Sub-Inspector of Police,
Samayapuram Police Station,
Trichy District,
(Crime No.402 of 2016)

... Respondent

Prayer: Petition filed under Section 439(1)(b) of Code of Criminal Procedure to set aside the condition Nos.1 and 3 of the order to the effect that the petitioner shall deposit a sum of Rs.1,00,000/- and to produce two sureties having property in Tamilnadu worth about Rs.1,00,000/- in the order dated 17.10.2016 in Crl.M.P.No.6952 of 2016 on the file of the learned Judicial Magistrate Court, No.III, Trichy.

For Petitioner : Mr.Ganapathi Subramanian
For Respondent : Mrs.S.Prabha
Govt. Advocate (Crl.Side)

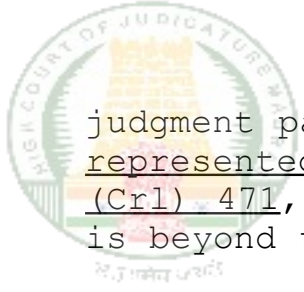
O R D E R

This petition has been filed seeking to quash the condition imposed on the petitioner vide order dated 17.10.2016 in Crl.M.P.No.6952 of 2016 by the learned Judicial Magistrate Court, No.III, Trichy, directing the petitioner to deposit a sum of Rs.1,00,000/- and to produce two sureties having property in Tamilnadu worth about Rs.1,00,000/-.

2. The case of the prosecution is that the petitioner along other accused is alleged to have committed the offence of theft and the total amount lost by the defacto complainant is Rs.11 lakhs.

3. According to the petitioner, the liability fastened against him was only Rs.50,000/- and the said amount has already been recovered from him and therefore, the conditions imposed by the Trial Court, while granting bail are onerous and require

4. Learned counsel for the petitioner would rely on the



judgment passed by me in the case of Amaldoss and Others vs. State represented by the Inspector of Police, reported in (2015) 1 MLJ (Cr1) 471, wherein it has been held that imposition of conditions is beyond the purview of Sections 437 and 438 IPC.

5. Learned Government Advocate (Cr1.Side) would contend that taking into consideration the seriousness of the offence, the Trial Court has imposed such condition, which does not call for any interference by this Court.

6. It may be necessary to state here that the order in Amaldoss and Others vs. State represented by the Inspector of Police, referred to above, has been passed by me. Though I had granted the relief as prayed for in the said case, in retrospect I am of the opinion that the view taken by me requires reconsideration. After all, we become wiser day by day. The order passed by my brother Judge Justice P.N.Prakash in Cr1.O.P.No.21666 of 2015 decided on 28.08.2015, taking a contrary view and modifying the condition to deposit Rs.5,000/- instead of Rs.10,000/- has been placed before me now. It is pertinent to mention here that this Court in the said case has not completely wiped out the condition of deposit.

7. In the present case on hand, though the liability fixed on the petitioner was Rs.50,000/- at the initial investigation and the said amount has also been recovered from him, the exact amount of liability to be fastened upon him will be unfolded only on completion of investigation and during trial. Therefore, this Court is of the view that the 1st condition imposed by the Trial Court alone is liable to be modified. Accordingly, the 1st condition stands modified as under:

i) The petitioner shall deposit a sum of Rs.10,000/- to the credit of Crime No.402 of 2016 before the learned Judicial Magistrate No.III, Tiruchirapalli.

8. The petitioner has to co-operate with the investigation and on the matter being taken up for trial, the petitioner has to appear before the concerned jurisdictional Court on all hearing dates without fail and shall co-operate for early conclusion of the trial.

9. With the above modification to the extent indicated above, this Criminal Original Petition is allowed.

Sd/
Assistant Registrar(CS-II)

/True Copy/



To:

1. The Judicial Magistrate Court, No.III,
Trichy.

2. The Sub-Inspector of Police,
Samayapuram Police Station,
Trichy District,

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.P.Ganapathi Subramanian, Advocate, SR.No. 70084

Cr1.O.P.(MD) No.20854 of 2016

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