



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.RC(MD) No.256 of 2016

and

CRL M.P. (MD) No.3417 of 2016

1.G.Victor

2.A.Anitha

... Revision Petitioners/
petitioners/Accused

-vs-

1.The State Rep.by

The Inspector of Police,

District Crime Branch,

Theni District.

(Crime No.Not Known of 2015)

... 1st Respondent/
Complainant

2.S.Manikandan

... 2nd Respondent/ Defacto
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to admit the revision, to call for the entire records relating to the impugned order passed in Cr.M.P.No.829 of 2016, dated 04.03.2016, on the file of Principal Sessions Judge, Theni and to set aside the same.

For Petitioner : Mr.D.Saravanan

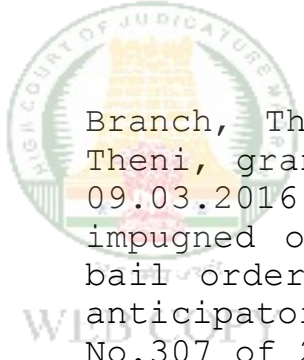
For Respondent-1: Ms.S.Prabha
Government Advocate (crl.side)

For Respondent-2: No Appearance

O R D E R

The revision petitioners, who are A1 and A2, challenges the cancellation of anticipatory bail granted to them by the learned Principal Sessions Judge, Theni.

2.A1 and A2, who are spouses, were alleged to have cheated the second respondent / defacto complainant. A case in Crime No.12 of 2016 has been registered by the first respondent / District Crime



Branch, Theni District. The learned Principal Sessions Judge, Theni, granted them anticipatory bail in CrI.M.P.No.644 of 2016 on 09.03.2016. On 04.03.2016, in CrI.M.P.No.829 of 2016, by the impugned order the learned Judge cancelled the said anticipatory bail order, on the ground that they have suppressed the earlier anticipatory bail order passed by this Court in CrI.O.P.(MD) No.307 of 2015 on 09.01.2015.

3.The said bail cancellation order is being challenged here.

4.I have heard the learned counsel for the revision petitioners / accused, learned Government Advocate (crl.side) and I have also perused the materials on record.

5. A perusal of the impugned order shows that the learned Sessions Judge has cancelled the anticipatory bail after hearing the defacto complainant and the prosecution. He did not issue notice to the accused. He did not hear the accused. He did not hear the counsel for the accused nor any legal aid counsel on behalf of the accused. Cancellation of bail / anticipatory bail is a very serious matter, as it is in the nature of withdrawing the bail order, it will give licence to the police to arrest the accused. The defacto complainant alleges fraud committed by the accused in obtaining anticipatory bail. Even then before cancelling the anticipatory bail order, an opportunity should be given to the accused. They may have some explanation to offer. This is a matter of observance or principles of natural justice. After hearing the accused the Sessions Judge can pass any order according to law. But the learned Sessions Judge, has passed unilateral order. It has been passed behind the back of the accused. This is not in accordance with law.

6. In view of the forgoings, ordered as under:-

i. This revision is allowed.

ii. The order passed by the learned Principal Sessions Judge, Theni in CrI.M.P.No.829 of 2016, dated 04.03.2016, cancelling the anticipatory bail order, passed in CrI.M.P.No.644 of 2016, is set aside.

iii. Consequently, the anticipatory bail order granted to the revision petitioners in CrI.M.P.No.644 of 2016, dated 09.03.2016, is revived.

iv. The CrI.M.P.No.829 of 2016 remanded to the learned Principal Sessions Judge, Theni, for fresh disposal, according to law.

<https://hcservices.ecourts.gov.in/hcservices/>

v. The learned Principal Sessions Judge, Theni shall issue notice to the revision petitioners / accused, give them reasonable



opportunity, hear both sides and dispose of the bail cancellation petition according to law.

Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1. Principal Sessions Judge, Theni

2.The Inspector of Police,
District Crime Branch, Theni District.

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

+1 cc to M/s.D.Saravanan, Advocate in SR.No.31941

+1 cc to M/s.A.R.Kannappan, Advocate in SR.No.32559

mpk

CSL/KBM/01.07.2016 : 3p/6c

C.R.L.RC(MD) No.256 of 2016
21.06.2016