



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.329 of 2016

Vijay Jeritha

... Petitioner / Respondent /
Accused

-vs-

State represented by
Inspector of Police
Fort Police Station
Trichy
(Crime No.67 of 2016)

... Respondent / Petitioner /
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to set aside the order passed in C.M.P.No.848 of 2016, on the file of the Judicial Magistrate No.I, Trichy, in Crime No.67 of 2016, on the file of the Inspect of Police, Fort (Crime) Police Station, Trichy, dated 10.03.2016.

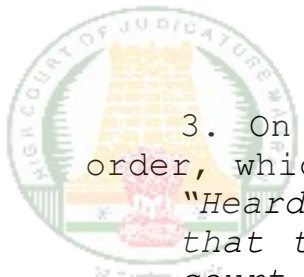
For Petitioner: Mr.C.Vakeeswaran

For Respondent: Mrs.S.Prabha
Govt.Advocate (Criminal Side)

O R D E R

In pursuance of the orders passed by this Court in Cr1.O.P. (MD) No.5482 of 2016, dated 31.03.2016, now this revision has been directed challenging the bail cancellation order, dated 10.03.2016 passed by the learned Judicial Magistrate No.I, Tiruchirappalli, in C.M.P.No.848 of 2016.

2. The petitioner, who is stated to be a lady pick-pocket, is an accused under Section 379 I.P.C. She was granted bail with conditions to appear before the respondent Police daily at 10 a.m., for 30 days. It seems that she has breached the said condition. She has not complied with the condition for 21 days. In the circumstances, the Investigation Officer filed C.M.P.No.848 of 2016, on the file of the Judicial Magistrate No.I, Trichy, to cancel her bail.



3. On 10.03.2016, the learned Magistrate passed the impugned order, which runs as under:

"Heard. Documents perused. It is stated in the reply that the petitioner is not abiding the condition of this court from 16.02.2016. Hence, petition is dismissed and the bail already granted is cancelled, as the petitioner has violated the condition of this Court. Issue Non-Bailable Warrant against her."

4. Looking at the order, it is seen that before cancelling the bail, the accused has not been heard. Consideration for granting bail and consideration for cancelling the bail are different. Bail orders are in the nature of liberty orders. They are in the nature of securing the liberty of a person. Before taking away / cancelling such orders, the accused must be heard as to why she has not complied with the condition. She may have some acceptable explanations and justification. She might have fell sick. Even there may be a case of suffering out of poverty. So, before cancelling the bail, the Court must adjudicate the issue and instead of cancelling the bail, the Court can also pass appropriate orders.

5. Now, in this case, the Magistrate has cancelled the bail without following the principles of natural justice. Thus, the impugned order suffers from legality.

6. Normally, when such a situation arose, the petition will be remanded back to the Trial Court for fresh consideration and disposal. But, I don't want to do it, because it will take sometime. Courts should not complex the issues.

7. Now, in this case, the petitioner is stated to have committed an offence of theft. Investigation is over. Final report also has been filed on 31.03.2016 itself. But, till date it is stated that cognizance thereon has not been taken. C.C.Number has not been assigned. The accused is entitled to speedy justice. Without cognizance and assigning C.C.Number, trial could not take place and justice could not be rendered. Either she may be convicted or acquitted, but it should be done quickly. Failure to do so would amount to breach of speedy justice to the accused.

8. Now, in this scenario, it is ordered as under:

- i. This criminal revision is allowed.
- ii. The Order, dated 10.03.2016, passed in C.M.P.No.848 of 2016, by the learned Judicial Magistrate No.I, Tiruchirappalli, is set aside.
- iii. Consequently, the bail order is revived.

<https://hcservices.ecourts.gov.in/> The Magistrate will take further action on the Final Report filed by the Police in Crime No.67 of 2016 without further delay, at any rate within



three days from the date of receipt of a copy of this Order.

v. In default so, the Chief Judicial Magistrate, Tiruchirappalli, will take appropriate prompt action to comply the Court order.

vi. Upon receipt of summons from the Court, the revision petitioner / accused shall regularly attend the Court for all the hearings unless her absence is condoned by a petition filed under Section 317 Cr.P.C.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

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To:

1.The Chief Judicial Magistrate, Tiruchirappalli.

2.The Judicial Magistrate No.I, Trichy.

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

4.The Inspector of Police (Crime),
Fort Police Station, Trichy.

+1CC to Mr.C.Vakeeswaran Advocate Sr.No.28253

GJM/ARK/PV/SAR-I-14.6.16-3p-6C

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