



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty Third day of December Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.23217 of 2016

VIJAYABHARATHI,

... PETITIONER / ACCUSED no.2

Vs

STATE THROUGH
THE SUB INSPECTOR OF POLICE,
NATHAM POLICE STATION,
DINDIGUL,
CRIME NO.207/2016.

... RESPONDENT / COMPLAINANT

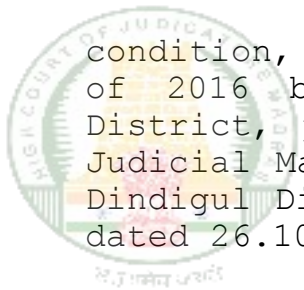
Prayer in CRL OP(MD). 23217/ 2016 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to modify the onerous condition No.4 imposed by the Honourable Judicial Magistrate Court, Natham by order dated 28.09.2016 in Crl.M.P.No.2446/2016 and consequential modification of condition No.4 by order dated 26.10.2016 in Crl.M.P.No.2503/2016 passed by the Principal Sessions Judge, Dindigul District, Dindigul directing deed of title for comparison as not to insist for production of original document of title with regard to ancestral property.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.V.ARUN, Advocate for the petitioner and of MR.P.KANDASAMY, Government Advocate, (Crl.side) on behalf of the Respondents the court made the following order:-

This Petition has been filed praying to modify the onerous condition No.4 imposed by the learned Judicial Magistrate, Natham, by order dated 28.09.2016 in Crl.M.P.No.2446 of 2016 and the consequential modification of condition No.4, by order dated 26.10.2016 in Crl.M.P.No.2503 of 2016 passed by the Principal Sessions Judge, Dindigul, directing the deed of title for comparison as not to insist for production of original document of title with regard to ancestral property.

2. The case was registered against the petitioner under Section 379 of IPC., on 25.05.2016, in Crime No. 207 of 2016, in Natham Police Station, Dindigul District. The Petitioner / accused was ordered to be released on bail, as per the order of learned Judicial Magistrate, Natham in Crl.M.P.No.2446 of 2016, dated 28.09.2016 with certain conditions. One among the condition is that 'the original documents of the sureties shown in the solvency certificate are to be produced in the Court until further orders'. Aggrieved by that



condition, the petitioner has filed an application in Cr.M.P.No.2503 of 2016 before the learned Principal Sessions Judge, Dindigul District, praying to modify the condition imposed by the learned Judicial Magistrate, Natham. The learned Principal Sessions Judge, Dindigul District, has modified only the 4th condition in its order, dated 26.10.2016, as follows:-

"The sureties are to produce the original documents along with the copies of the same and after comparison, the lower Court has to return the original documents to the sureties and retain the copies of the documents and in other respects, the order passed by the Court below is hereby confirmed accordingly."

3. Aggrieved by that modified order, the petitioner has filed this petition before this Court praying to modify the onerous condition No.4 imposed by the learned Judicial Magistrate, Natham in Crl.M.P.No.2446 of 2016, dated 28.09.2016 and the consequential modification of condition No.4, by the learned Principal Sessions Judge, Dindigul, dated 26.10.2016 in Crl.M.P.No.2503 of 2016, directing the deed of title for comparison as not to insist for production of the original document of title with regard to ancestral property.

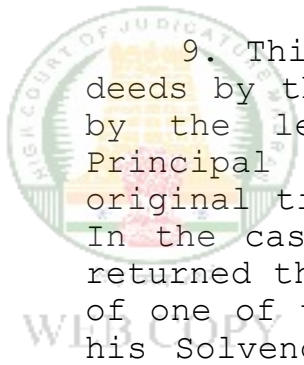
4. Records produced by the Petitioner are perused. Rival submissions made by either parties are also taken into consideration.

5. The petitioner was arrested for the commission of offence under Section 379 of IPC., and he is in jail. The another accused is still absconding and the investigation is still pending.

6. The case of the prosecution is that the accused came in a two wheeler and pushed the defacto complainant, who was walking with her husband and also snatched her gold chain weighting 8-1/2 sovereigns. The arrested accused is still in custody for non-compliance of the modified condition No.4, imposed by the learned Principal Sessions Judge, Dindigul, dated 26.10.2016.

7. It is admitted by the petitioner that in compliance of the said modified order, two sureties were produced and one among them has not present deed or document of title in respect of the property given as surety, since that property is an ancestral one. From the materials on record it is seen that the learned Judicial Magistrate, Natham enlarged the accused on bail insisting the sureties to produce the original title deed as one of the condition.

8. The learned counsel for the petitioner submits that the said condition is onerous one. He would further submit that the Hon'ble Apex Court as well as this Court held in a catena of decisions that while enlarging the accused on bail, onerous conditions should not be imposed.



9. This Court also holds that production of the original title deeds by the sureties is a onerous one. The impugned order passed by the learned Judicial Magistrate, Natham and the learned Principal Sessions Judge, Dindigul, insisting to produce the original title deeds by the sureties is not legally acceptable one. In the case on hand, the learned Judicial Magistrate, Natham, has returned the surety memo for want of original title deeds in respect of one of the sureties. It is also admitted by the petitioner that his Solvency Certificate and Encumbrance Certificate as imposed by the learned Judicial Magistrate, Natham, were produced along with surety memo. But the said surety memo was returned in respect of one surety, directing the surety to produce the original title deeds, as ordered in the modification condition by the learned Principal Sessions Judge, Dindigul.

10. Considering the above facts, this Court is inclined to set aside the condition No.4 imposed by the Courts below directing or insisting the said surety to produce the original title deeds of the property mentioned in solvency certificate, as untenable. Hence, the learned Judicial Magistrate, Natham, Dindigul District, is directed to accept the surety memo without insisting the other surety to produce the original title deeds for bail.

11. According, this Criminal Original Petition is disposed of.

sd/-
23/12/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE PRINCIPAL SESSIONS JUDGE, DINDIGUL
- 2 THE JUDICIAL MAGISTRATE, NATHAM
- 3 -DO-THRO THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL
- 4 THE SUB INSPECTOR OF POLICE,
NATHAM POLICE STATION, DINDIGUL.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.A.V.ARUN Advocate SR.No.80707

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