

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.08.2017**

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.8187 of 2017

R.Janaki

... Petitioner

Vs

1. State, represented by
The Inspector of Police
Central Crime Branch,
Team I, Greater Chennai Police,
Vepery, Chennai-600 007.

2. J.Thuaseedharan

3. T.Kavitha

... Respondents

Prayer:- Criminal Original Petition filed under Section 439(2) of the Code of Criminal Procedure, to cancel the Anticipatory Bail granted to the accused (2nd and 3rd respondents) by this Hon'ble Court under its order dated 08.03.2017 made in Crl.O.P.No.2774 of 2017.

For Petitioner : Mr.G.Daisy John

For Respondents : Mr.C.Emalias
Additional Public Prosecutor

For R1

Mr.M.Muthusamy,
For RR2 and 3.

ORDER

This Criminal Original Petition has been filed to to cancel the Anticipatory Bail granted to the accused (2nd and 3rd respondents) by this Hon'ble Court under its order dated 08.03.2017 made in Crl.O.P.No.2774 of 2017.

2. On the complaint lodged by one Janaki, the respondent police registered a case in Crime No.356 of 2016 for the offences under Sections 344, 406, 420 and 506(i) IPC against Thulaseedharan and Kavitha.

3. It is the contention of Janaki that she is the owner of the prime property in Anna Nagar and that she was kept under illegal detention by Thulaseedharan and his wife Kavitha for three years and they obtained a settlement deed from Janaki settling the property in their favour illegally. While so, Thulaseedharan and his wife Kavitha filed CrI.O.P.No.2774 of 2017 for anticipatory bail, in which, learned Judge of this Court went into the merits of the case and granted anticipatory bail on 08.03.2017. Now, Janaki is before this Court for cancelling the anticipatory bail on the ground that the learned Judge had failed to note the fact that the allegations are not civil in nature, but the allegations disclose the commission of cognizable offences.

4. Heard Mr.Aravind, the learned counsel appearing for Janaki, the learned Additional Public Prosecutor appearing for the first respondent police and Mr.Muthusamy, learned counsel for the intervenor.

5. This Court gave its anxious consideration to the rival submissions.

6. In **Abdul Basit Vs.Mohd.Abdul Kadir Choudhary [2014 (11) SCALE 96] [2014 (10) SCC 754]**, the Hon'ble Supreme Court has held that bail granted to the accused on merits cannot be cancelled by the same Court and that the same can be interfered with only by the Superior Court. However, if there is a violation of conditions of bail, then the Court which granted the bail, has the power to cancel the bail.

7. It is not the allegations of Janaki that the accused committed violation of conditions of bail. It is the contention of Janaki that the learned Judge, while granting bail to the accused, has stated in several places that the transaction is purely civil in nature, whereas the FIR has been filed in this case, pursuant to the direction given by this Court in Crl.O.P.No.15626 of 2016 dated 22.07.2017. In the opinion of this Court, a finding of such a nature in the anticipatory bail order can have no binding effect either in the trial of the same case or in any other collateral proceedings, since bail applications are interlocutory applications and they do not determine the civil rights of parties. Assuming that bail is granted, it does not mean that the accused is innocent of the offences. This being the law, this Court is of the view that the bail granted to the petitioners cannot be cancelled in the light of law laid down by the Hon'ble Supreme Court in **Abdul Basit Vs.Mohd.Abdul Kadir Choudhary [2014 (11) SCALE 96] [2014 (10) SCC 754]**.

8. Mr.Aravind, the learned counsel for the petitioner submitted that the accused are frequently causing disturbance to Janaki, asking her to withdraw the complaint.

P.N.PRAKASH, J.,

kmi

9. Liberty is always available to Janaki to approach the local police and lodge a fresh complaint as and when there is such a real threat. The respondent police is directed to proceed with the investigation in Crime No.356 of 2016 without in any manner being influenced by what is observed in the order dated 08.03.2017 passed by this Court in CrI.O.P.No.2774 of 2017.

10. With the above observations, this Criminal Original Petition is closed.

08.08.2017

kmi

To

1. The Inspector of Police
Central Crime Branch,
Team I, Greater Chennai Police,
Vepery, Chennai-600 007.
2. The Public Prosecutor,
High Court, Madras.

CrI.OP.No.8187 of 2017