

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eleventh day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.11211 of 2017

IN CRL OP.27923/2014

STEPHAN ARULDOSS

[PETITIONER]

Vs

STATE BY

[RESPONDENT]

SUB-INSPECTOR OF POLICE,
R7 K.K.NAGAR POLICE STATION,
CHENNAI
CR.NO.940 OF 2014.

Petition praying that in the circumstances stated therein the High Court will be pleased to modify the condition imposed by this Hon'ble Court in Crl.O.P.No.27923 of 2014, dated 6.11.2014 and to direct the Respondent by suitable order to return the sum of Rs.2,00,000/- to the Petitioner paid in vide Receipt No.49253 dated 1.12.2014 from the custody of the Hon'ble XXIII Metropolitan Magistrate at Saidapet, Chennai in R7, K.K.Nagar Police Station, Crime No.940 of 2014 (CC.No.2526 of 2015).

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.S.XAVIER FELIX, Advocate for the petitioner and of MR. K.MATHAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

On 29.10.2014, this Court granted anticipatory bail to Prasad, petitioner in Crl.O.P.No.27881 and Stephan Arul Doss, petitioner in Crl.O.P.No.27923 of 2014, on condition that they should deposit a sum of Rs.4,00,000/- jointly or severally before the Tamil Nadu State Legal Services Authority and with a further direction to the Legal Services Authority to disburse the amounts to the defacto complainant after proper verification and directed the Registry to list the matter on 26.11.2014 'for reporting compliance'.

2. On 26.11.2014, learned counsel for the accused sought modification of the aforesaid condition on the ground that, if the amount is disbursed to the defacto complainant, the accused will be seriously prejudiced if the criminal case ends in favour of the accused. Accepting the submissions, this Court by order dated 26.11.2014, modified the condition as follows:

"Under such circumstances, the condition, viz., 5[a] imposed in the order dated 29.10.2014 is hereby deleted. The petitioners are directed to deposit the sum of Rs.4,00,000/- jointly or severally before the learned XXIII Metropolitan Magistrate, Saidapet, Chennai within a period of one week from today. On such deposit, learned XXIII Metropolitan Magistrate, Saidapet, Chennai shall deposit the said sum of Rs.4,00,000/- in any one of the Nationalized Bank under Fixed Deposit Scheme initially for a period of one year and thereafter it should be renewed periodically so that the amount does not lie idle and it accrues interest. At the end of the trial, learned Magistrate shall disburse the amount to either parties after due enquiry. Other conditions imposed in the order dated 29.10.2014 shall remain unaltered. The Interim Anticipatory Bail granted is extended till 09.12.2014."

3. In compliance with the order dated 26.11.2014, Stephan Arul Doss, deposited Rs.2,00,000/- before the XXIII Metropolitan Magistrate, Saidapet, vide receipt No.49253 dated 01.12.2014.

4. Now, Stephan Arul Doss has filed the present petition for refund of Rs.2,00,000/- that has been deposited by him on the ground that, he is suffering from blood cancer and that he requires financial help for his medical expenses.

5. On instructions, the learned Government Advocate (Criminal side) submitted that Stephan Arul Doss is afflicted by cancer and that he is taking treatment both in the Railway Hospital and in the Cancer Institute, Adyar.

6. The learned counsel for the de facto complainant submitted that Stephan Arul Doss and his wife are working in the Southern Railways and therefore, they are entitled to free treatment in the Railway Hospital until their death and hence, the plea of Stephan Arul Doss that he has no money to meet the medical expenses should not be accepted.

7. Per contra, Mr. Xavier Philips, learned counsel for Stephan Arul Doss submitted that Stephan Arul Doss had served in Indian Army and after retirement he has been re-employed in the Railways, but, there is no love lost between him and his wife and therefore, he does not have family support.

8. This Court gives its anxious consideration to the rival submissions.

9. On a perusal of the letter dated 10.10.2017, issued by the Cancer Institute, Adyar to the Inspector of Police, R7 K.K Nagar Police station, it is stated as follows:

"He is supported by ICF (Integral Coach Factory-owned and operated by the Indian Railways). His treatment bills are settled by them."

10. Taking into consideration the competing claims put forth on behalf of the accused and the defacto complainant, this Court of the view that it will serve the interest of the justice, if a sum of Rs.1,00,000/- is directed to be refunded to Stephan Arul Doss for the purpose of his medical expenses.

11. In the result, this Court directs the learned XXIII Metropolitan Magistrate, Saidapet, to refund the sum of Rs.1,00,000/- out of Rs.2,00,000/-, that has been deposited by Stephan Arul Doss, vide receipt No.49253, dated 01.12.2014 within a period of four weeks from the date of receipt of a copy of this order, under proper identification and acknowledgment.

This Petition is ordered accordingly.

-sd/-
11/10/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.XXIII, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
R7 K.K. NAGAR POLICE STATION,
CHENNAI.

+1C.C. to M/S.S.XAVIER FELIX Advocate on payment of necessary charges SR NO.19275

Order

in
CRL MP.11211/2017

in
CRL OP.27923/2014

Date :11/10/2017

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:24/10/2017