

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

Crl.R.C. No.1356 of 2016
and Crl.M.P.No.12031 of 2016

Balaji

... Petitioner

Vs

1. State Rep. By,
 The Inspector of Police,
 B1, North Beach Police Station,
 Broadway, Chennai - 600 001.
 Crime No.1145/2014.

2. K. Ayyappan

... Respondents

Prayer:- This Criminal revision is filed under Section 397 & 401 of Cr.P.C. prays to call for the records in Crl.M.P.No.26076/16, on the file of the VII Metropolitan Magistrate, George Town, Chennai and set aside the order dated 14.06.2016.

For petitioner

: Dr.G.Krishnamurthy

For Respondents

: Mr.C.Iyyapparaj
 Additional Public Prosecutor for R1
 Mr.M.Venkadesh Kumar for R2

ORDER

This Revision Case has been filed against the order passed by the
 learned VII Metropolitan Magistrate, George Town, Chennai - 1 in

2. The petitioner was the accused in a criminal case, where he already obtained anticipatory bail. Subsequently, at the instance of the defacto complainant, who filed the Crl.M.P.No.26076 of 2016 before the trial Court, the learned Judge, by the impugned order, cancelled the bail and directed the petitioner to be secured. As against that order, the present revision has been filed.

3. I have heard Dr.G.Krishnamurthy, learned counsel appearing for the petitioner as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the first respondent/state.

4. The learned Additional Public Prosecutor, as preliminary objection, raised an issue that the order impugned cancelling bail, granted to the petitioner, is an Interlocutory order. Therefore, by virtue of Section 397(2) of the Code of Criminal Procedure (in short, "the code"), no revision shall lie before this Court. Hence, if at all the petitioner is having grievance over the impugned order, he can work out his remedy in the manner known to law in an appropriate forum and not before this Court by filing revision case invoking revisional power of this Court under Section 397 r/w. 401 of the Code.

5. The learned Additional Public Prosecutor, in support of the said contention, has relied upon two decisions of this Court i.e. Crl.R.C.No.189 of 2015 dated 28.04.2015 and Crl.R.C.Nos.1016 to 1023 of 2007 dated 25.07.2007.

6. I have heard Dr.G.Krishnamurthy, learned counsel appearing for the petitioner in this regard.

7. In fact, the said two judgments referred to by the learned Additional Public Prosecutor had been taken into account in an earlier judgment of this Court, where I have considered the said judgments and held that as against the order of cancellation of bail, being an Interlocutory order, no revision would lie and the same was held in the judgment made in Crl.R.C.No.967 of 2017 dated 28.07.2017. Accordingly, liberty was given to the petitioner in the said case to approach the appropriate forum.

8. Herein the case on hand, a very similar situation that are confronted as the petitioner has challenged only the order of cancellation of bail, which is impugned herein and therefore, such order being Interlocutory order cannot be assailed by invoking revisional jurisdiction of this Court in view of the embargo as provided under Section 397(2) of the Code.

9. In view of the said legal position, the preliminary objection raised by the learned Additional Public Prosecutor is sustained and accordingly, this revision is rejected as not maintainable.

10. However, the petitioner is given liberty to approach the appropriate forum in the manner known to law for redressal of his grievance. For the said purpose two weeks, from the date of receipt of a copy of this order, is given to the petitioner. Till such time, the petitioner shall not be arrested by the respondent police.

11. With these observations, this Criminal Revision Case is rejected as not maintainable with liberty as referred above. Consequently, connected Miscellaneous petition is closed.

सत्यमेव जयते

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Internet:Yes.

rsi

To

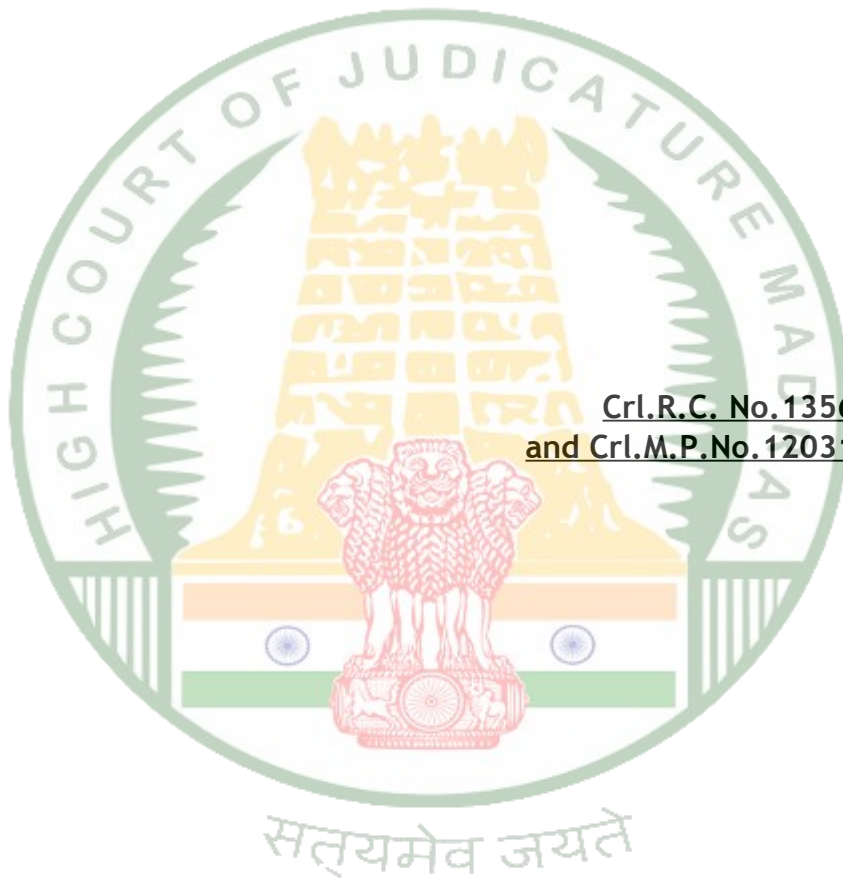
1. The Inspector of Police,
B1, North Beach Police Station,
Broadway, Chennai - 600 001.
Crime No.1145/2014.
2. The VII Metropolitan Magistrate,
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R. SURESH KUMAR, J.

rsi



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