

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2017

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.15836 of 2013

Chandran Ratnaswami ...Petitioner/ Defacto complainant
Vs

1. K.C. Palanisamy

2. The Inspector of Police,
Central Crime Branch,
Team- I, Egmore,
Chennai.

..Respondents/ Complainant

Criminal Original Petition filed under Section 439(2) of Cr.P.C., to cancel the bail granted to the first respondent vide order dated 25.04.2008 in Crl.M.P.No.1351 of 2008 in FIR No.87 of 2008 by the learned Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.Aditya Bhat

For Respondent : Mrs.D.Saraswathi for R1.

Mr.C.Emalias
(Additional Public Prosecutor) for R2.

ORDER

This petition has been filed to cancel the bail granted to the first respondent vide order dated 25.04.2008 in Crl.M.P.No.1351 of 2008 in FIR No.87

of 2008 by the learned Chief Metropolitan Magistrate, Egmore, Chennai

2. On the complaint lodged by Cheran Enterprises the respondent police registered a case in Cr. No.87/08 and arrested K.C. Palanisamy for offences under sections 403, 406, 417, 420, 464, 468, 471, 474, 477(A), 506(ii) IPC r/w.120(B) IPC. K.C.Palanisamy was granted statutory bail under section 167(ii)(a) Cr.P.C in CrI.M.P.No.1351 of 2008 in X.Cr.No.87/2008 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai on 25.04.2008 on condition that he should execute a bond for Rs.25 lakhs with two sureties. Accordingly, he was released on bail. Whiles, Chandran Rathnaswami has filed the present petition in the year 2017 to cancel the bail that was granted to K.C. Palanisamy on the ground that he has been misusing the bail by filing frivolous litigations and preventing Chandran Rathaswami from coming to India.

3. The learned Additional Public Prosecutor submitted that investigation in Cr.No. 87 of 2008 had been completed and charge sheet has been filed in CC.No.9272/14 before the Additional Chief Metropolitan Magistrate, Egmore Chennai and the case has been transferred to the file of the Special Court for CCB Cases, Allikulam, Egmore, Chennai.

4. The learned Additional Public Prosecutor also brought to the notice of the Court that this court has stayed that further proceedings in CC.No.1972/14 on the quash application filed by CCB in CrI.O.P.No.4213/2017 on 22.06.2017.

5. Mr. Sivanantharav, the learned counsel appearing for the petitioner submitted that Supreme Court has made adverse references about the conduct of K.C.Palanisamy and notwithstanding that, he continues to harass the defacto complainant by filing false cases in various forums. Mr. Sivanantharaj also submitted that K.C. Palanisamy is filing cases against the advocate representing the defacto complainant.

6. In the considered opinion of this Court, the aforesaid reason cannot form the basis of cancellation of bail that has been granted to the accused.

7. If the accused attempts to intimidate the witness, then, that could be a reason to interfere with the order of the bail.

8. In this case bail was granted in the year 2008 and the petition for cancellation of bail was filed in the year 2013 and now, we are in the year 2017.

9. On instructions, the learned Additional Public Prosecutor submitted that K.C. Palanisamy was appearing before the trial court regularly until the grant of stay by this court in Crl.O.P.No.4213/2017 on 22.06.2017.

10. However, Mr.Sivanantharaj, learned counsel appearing for the petitioner refuted the contention.

11. Be that as it may, if K.C. Palanisamy does not appear before the trial court, it is always open to the trial court to compel his appearance by issuance of NBW to secure him.

12. If the accused adopts any dilatory tactics, it is open to the trial Court to remand him to custody in terms of the law laid down by the Supreme Court in **State of Uttar Pradesh v. Shambunath Singh [JT 2001 (4) SC 319]**.

13. If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above observation, this petition is closed with liberty to the petitioner to file a fresh application for cancellation of bail if K.C.Palanisamy is found violating the conditions of bail.

सत्यमेव जयते

10.08.2017

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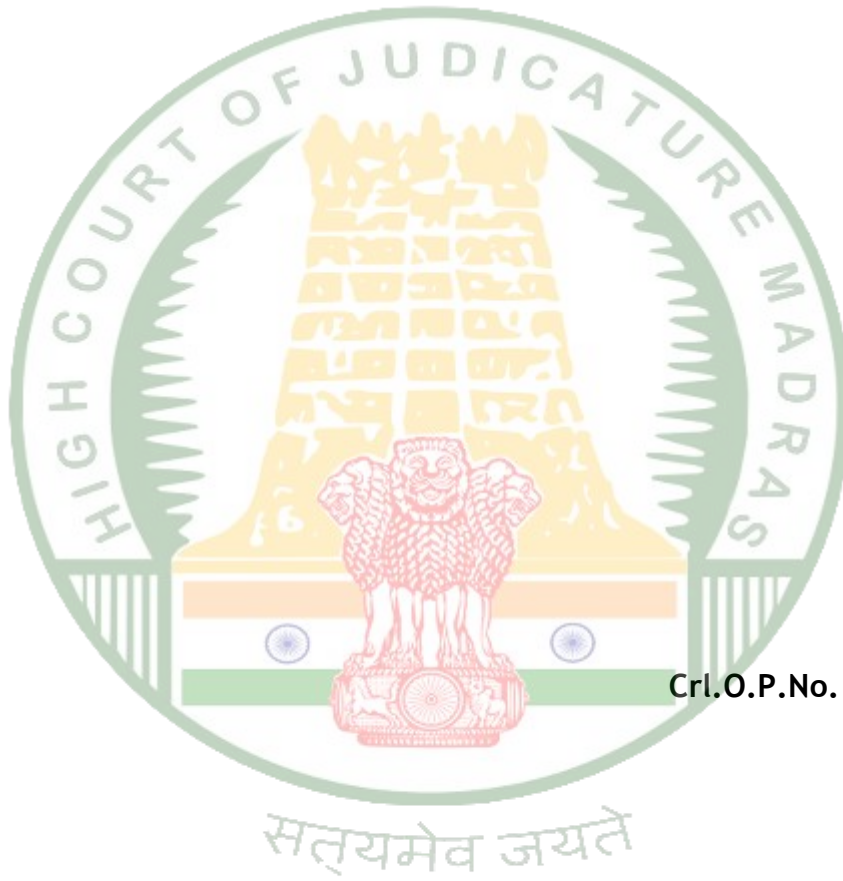
1. The Inspector of Police,
Central Crime Branch,
Team- I, Egmore,
Chennai.

2. The Public Prosecutor, High Court, Madras.

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