



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2017

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Crl.O.P.(MD) No.24099 of 2015

and

Crl.M.P(MD)No.1 of 2015

1.M.Suresh Basha
2.Ramarathinam
3.Srikumar

: Petitioners/A5 to A7

Versus

The Deputy Superintendent of Police,
Economic Offences Wing-II,
Madurai.

: Respondent/Complainant

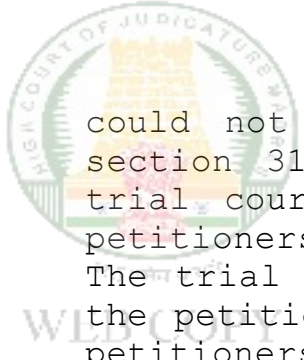
Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to set aside the docket order passed in Cr.M.P.No.2584 of 2015 in C.C.No.11 of 2015 dated 09.12.2015 and recall the non bailable warrant on the file of the Special Court for TANPID Act cases, Madurai.

For Petitioners	: Mr.N.Mohideen Basha
For Respondent	: Mr.B.Pugalendhi learned Additional Advocate General assisted by Mr.K.Anbarasan Government Advocate (Criminal side)

O R D E R

This petition has been filed to set aside the docket order passed in Cr.M.P.No.2584 of 2015 in C.C.No.11 of 2015 and to recall the non bailable warrant on the file of the Special Court for TANPID Act cases, Madurai.

2.The learned counsel appearing for the petitioners would submit that the case registered in Crime No.4 of 2014 was taken on file in C.C.No.11 of 2015 on the file of the Special Court for TANPID Act Cases, Madurai and on 09.12.2015, when the case came up for hearing, the petitioners got struck up in Chennai which witnessed heavy rain and Floods. Consequently, the petitioners



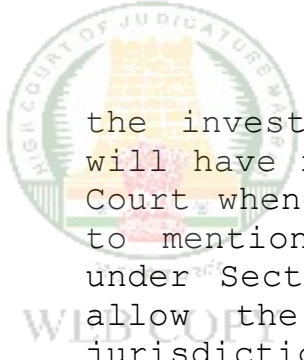
could not appear before the court and hence, a petition under section 317 Cr.P.C was filed to condone their absence, but the trial court dismissed that petition and issued NBW against the petitioners by order, dated 09.12.2015 in Cr.M.P.No.2584 of 2015. The trial court failed to consider the request made on behalf of the petitioner for dispensing with the personal appearance of the petitioners under Section 317 Cr.P.C but simply dismissed the same. The trial court has further failed to consider the fact that this court has granted interim anticipatory bail in CrI.O.P (MD)No.19438 of 2014 and it was extended on 16.07.2015 until further orders. In view of the above facts, the impugned order passed by the trial court has to be set aside.

3.Per contra, the learned Additional Advocate General appearing for the respondent would submit that in this case, the petitioners have already been arrested in respect of other crime numbers. In any event, the trial Court, by exercise of its discretionary power to secure the attendance of the petitioners, has issued the non-bailable warrant against them especially when they did not appear before the trial court for successive hearing and hence, he prayed for the dismissal of the petition.

4.Heard both sides and perused the materials available on record.

5.In this case present application is filed only to set aside the docket order passing on 9.12.2015 in C.C.No.11 of 2015. In support of their contentions, the learned counsel for the petitioner relied on the order dated 16.07.2015 passed by this Court in CrI.OP (MD) No. 17123 of 2014 etc., whereby this Court extended the order granting interim anticipatory bail in favour of the petitioners. Subsequently, the interim anticipatory bail was further extended by this Court by order dated 13.10.2015. The learned counsel for the petitioners also place reliance on the order dated 22.06.2015 passed by the Division Bench of this Court in W.A. (MD) No. 1267 of 2014. The said Writ Appeal was filed as against the order dated 17.09.2014 in WP (MD) No. 15200 of 2014. The prayer in the Writ Petition was to quash the order passed by the TNPID Court and to restore the bank account freezed during the course of investigation. The Division Bench of this Court issued certain direction to the investigation officer to take follow up action with the Government to monitor the process of verification.

6.It appears that by virtue of these orders passed by this Court granting interim anticipatory bail and the Judgment of the Division Bench, the petitioners did not appear before the trial Court when the case came up for hearing. The orders indicated <https://hccases.hccourt.gov.in/hccases/> indicating to do with the personal appearance of the petitioners before the trial Court. The grant of interim anticipatory bail granted by this Court operates as a restraint to



the investigation officer from arresting the petitioners but it will have no bearing on the petitioners to appear before the trial Court whenever the case is taken up for hearing. It is needless to mention that merely if the petitioners file an application under Section 317 of Cr.P.C. the trial Court cannot mechanically allow the petition. The trial Court, in exercise of its jurisdiction conferred under the Code of Criminal Procedure, to ensure that attendance of the parties to the case, may accept the petition or to reject it. Such exercise of power by the Trial Court cannot be slightly disturbed by this Court especially when the reasons assigned by the petitioners for not appearing before the Trial Court is not convincing.

7. In such view of the matter, the order passed by the trial Court is confirmed and the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To,

1. The Judge,
Special Court for TNPID Act Cases, Madurai.
2. The Deputy Superintendent of Police,
Economic Offences Wing-II, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Cr1.O.P. (MD) No.24099 of 2015
27.03.2017

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