

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.158 of 2017

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioner/A.1 to quash the order dated 02.01.2017 in CrI.M.P.No.1134 of 2016 in Crime No.521 of 2016 passed by the XXI Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District, cancelling the bail granted to him, exercising power under Section 437(5) of Cr.P.C.

2. The only allegation in the aforesaid CrI.M.P.No.1134 of 2016 in Crime No.521 of 2016 is that the petitioner/A.1 did not comply with the conditions imposed by the said Court, while granting bail on 15.12.2016 in CrI.M.P.No.1072 of 2016, wherein the petitioner/A.1 was directed to appear before the Police Station concerned on the last Sunday of every month, but he failed to comply with the said condition. It is also brought to the notice of this Court that the defacto-complainant in the above crime lodged a complaint before the police against the petitioner/A.1 about missing of her husband, under the head 'Man Missing', for which Crime No.383 of 2016 of Alwal Police Station, Cyberabad, was registered and pending, though the petitioner was requested to appear before him to record his statement, he did not appear before the police in the said crime.

3. The petitioner/A.1 filed a detailed counter contending that due to the unbearable harassment of the defacto complainant, he left the house. It is also stated that he appeared before the Police Station concerned as directed by the Court below on one occasion and later sent a letter by registered post with acknowledgement due on 09.09.2016 about the life threat being faced by him in the hands of the defacto complainant, but the police did not take any action and, therefore, he could not appear before the police concerned.

4. Thus, the petitioner himself admitted about his non-appearance before the police concerned as directed by the learned Magistrate in Crl.M.P.No.1072 of 2016, dated 15.12.2016 due to the life threat. But, non-appearance of the petitioner/A.1 due to the life threat is not a ground and, at best, he is required to file an appropriate application before the learned Magistrate seeking modification or relaxation of the conditions imposed. Instead of resorting to such a procedure, the petitioner/A.1 avoided to appear before the police concerned and failed to comply with the conditions imposed by the learned Magistrate in Crl.M.P.No.1072 of 2016, dated 15.12.2016.

5. Section 437(5) of Cr.P.C., permits the Court, which has released a person on bail, under sub-section (1) or sub-section (2), if it considers it necessary so to do, direct that

such person be arrested and commit him to custody. Thus, the power conferred on the Court is unbridled. By exercising such power, the Court can not only cancel the bail granted to a person, but also order for arrest of that person and commit him to custody. As the petitioner/A.1 failed to comply with the conditions imposed by the learned Magistrate while granting bail, cancellation of his bail is not an illegality and thereby the order under challenge cannot be found fault and, on the other hand, the petitioner/A.1 himself is at fault.

6. Therefore, I find no ground to quash the order dated 02.01.2017 in Crl.M.P.No.1134 of 2016 in Crime No.521 of 2016 passed by the XXI Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District. However, liberty is given to the petitioner/A.1 to surrender himself before the learned Magistrate and file appropriate application seeking bail and on filing such application, the learned Magistrate is directed to pass appropriate orders in accordance with law.

7. With the above observations, this Criminal Petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

06.01.2017.
Msr

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