

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.694 of 2018

And

Crl.M.P.No.8089 of 2018

S.Thilagamani

... Petitioner

Vs.

State represented by
the Inspector of Police,
City Crime Branch,
Coimbatore City,
Crime No.26 of 2018.
Coimbatore District.

... Respondent

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code seeking to call for the records relating to the impugned order dated 14.06.2018 made in Crl.M.P.No.3691 of 2018 on the file of the learned Judicial Magistrate No.3, Coimbatore and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondent : Ms.S.Thankira
Government Advocate (Crl. Side)

सत्यमेव जयते
O R D E R

This criminal revision has been filed seeking to call for the records relating to the order dated 14.06.2018 made in Crl.M.P.No.3691 of 2018 by the learned Judicial Magistrate No.3, Coimbatore and to set aside the same.

2.The case of the petitioner is that the petitioner is A2 in Cr.No.26 of 2018 for the offence punishable under Sections 406, 420 of IPC @ 120(B), 406, 420, 506(i) of IPC @ 120(B), 406, 468, 471, 420, 506(i) of IPC. The case was registered based on the complaint given by the Area Manager of YES Bank alleging that the accused have committed the offence of non-repayment of loan amount and when the Collection Manager went for collecting

the loan amount, A1 who is the husband of the petitioner/A2 threatened him with dire consequences. Thereafter, the petitioner was arrested and remanded to judicial custody on 04.05.2018. Hence, the petitioner filed CrI.M.P.No.3414 of 2018 before the learned Judicial Magistrate No.3, Coimbatore and the learned Judicial Magistrate No.3, Coimbatore, vide order dated 16.05.2018 granted bail to the petitioner subject to some conditions.

3.It is the further case of the petitioner that thereafter, the petitioner filed CrI.M.P.No.3635 of 2018 before the learned Judicial Magistrate No.3, Coimbatore for relaxation of the condition. However, the said petition was dismissed on 01.06.2018. Thereafter, the petitioner filed CrI.O.P.No.15110 of 2018 before this Court seeking modification of the condition imposed by the learned Judicial Magistrate No.3, Coimbatore, in CrI.M.P.No.3414 of 2018 dated 16.05.2018. This Court vide order dated 12.06.2018 modified the condition and directed the petitioner to report before the respondent Police once in a week i.e., on every Saturday at 10.30 a.m., until further orders.

4.It is the further case of the petitioner that the petitioner was complying with the condition as directed by this Court, however, the law enforcing agency moved petition for cancellation of bail before the learned Judicial Magistrate No.3, Coimbatore in CrI.M.P.No.3691 of 2018 on the ground that the petitioner has threatened the Bank Officials and it would amount to hampering and tampering of the witnesses. The learned Judicial Magistrate No.3, Coimbatore vide order dated 14.06.2018 allowed the petition. Hence the petitioner has filed this petition.

5.The learned counsel appearing for the petitioner would submit

that the Bank Officials in their statement under Section 161 of Cr.P.C. has informed the Police that the accused have threatened them. Based on the said statement, the law enforcing agency has moved the petition for cancellation of bail and the impugned order came to be passed by the lower Court.

6.The learned counsel appearing for the petitioner would further submit that the petitioner has filed CrI.O.P.No.15847 of 2018 before this Court seeking to quash the FIR in Crime No.26 of 2018 and this Court vide order dated 30.07.2018 directed that if it is seen that the petitioner was merely a name lender and was not involved in the business affairs with her husband, then the further proceedings against her should be dropped. He further submitted that the petitioner has nothing to do with her husband's business. However, the lower Court cancelled the bail

only on the ground that the petitioner threatened the Bank Officials who are witnesses in the criminal case. Once bail is granted that cannot be cancelled in a mechanical manner, without any supervening circumstance. In this case, no supervening circumstances arises for cancellation of bail. Accordingly, he prayed for allowing the revision.

7.The learned Government Advocate (Crl. Side) submitted that the Bank Officials in their statement under Section 161 of Cr.P.C. has informed the Police that the accused have threatened them. Hence, the law enforcing agency has moved the petition for cancellation of bail as the Bank Officials are witnesses in the case and the same was allowed by the lower Court. Accordingly, she prayed for dismissal of the revision.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Perusal of records discloses that the petitioner filed Crl.M.P.No.3414 of 2018 before the learned Judicial Magistrate No.3, Coimbatore and vide order dated 16.05.2018, bail was granted to the petitioner subject to some conditions. Thereafter, the petitioner filed Crl.M.P.No.3635 of 2018 before the learned Judicial Magistrate No.3, Coimbatore, for relaxation of the condition. However, the said petition was dismissed on 01.06.2018. Thereafter, the petitioner filed Crl.O.P.No.15110 of 2018 before this Court seeking modification of the condition imposed by the learned Judicial Magistrate No.3, Coimbatore, in Crl.M.P.No.3414 of 2018 dated 16.05.2018. This Court vide order dated 12.06.2018 modified the condition and directed the petitioner to report before the respondent Police once in a week i.e., on every Saturday at 10.30 a.m., until further orders.

10.Perusal of the records also discloses that the law enforcing agency moved petition for cancellation of bail before the learned Judicial Magistrate No.3, Coimbatore in Crl.M.P.No.3691 of 2018 on the ground that the petitioner has threatened the Bank Officials and the impugned order came to be passed.

11.Admittedly, there is no violation of the condition imposed upon the petitioner. The petitioner is complying with the condition as directed by this Court. The Bank Officials in their statement under Section 161 of Cr.P.C. has informed the Police that the accused have threatened them. Only on that ground the law enforcing agency has moved the petition for cancellation of bail.

12.It is the duty cast upon the law enforcing agency to record statement under Section 161 of Cr.P.C., and it will not

give right to the law enforcing agency to file petition for cancellation of bail. The law enforcing agency should produce the statement given by the witnesses under Section 161 of Cr.P.C. during trial and it is for the trial Court to decide the issue. However, in the present case the petitioner already joined investigation and her statement was recorded and fully cooperating with the investigation agency. Hence, there is no violation of condition and tampering of witnesses. The usual anxiety of the complainant and his witnesses is to punish the accused. However duty of the law enforcing agency has to act in an impartial manner and leave the Court to take decision.

13.Further, the petitioner has filed Crl.O.P.No.15847 of 2018 before this Court seeking to quash the FIR in Crime No.26 of 2018 and this Court vide order dated 30.07.2018 has granted liberty to the law enforcing agency to drop the further proceedings against the petitioner if it is seen that if the petitioner was merely a name lender and was not involved in the business affairs with her husband.

14.In view of the above, this Court is inclined to interfere with the order passed by the lower Court. Accordingly, the order dated 14.06.2018 made in Crl.M.P.No.3691 of 2018 by the learned Judicial Magistrate No.3, Coimbatore, is set aside. The petitioner shall continue to comply with the condition as directed by this Court vide order dated 12.06.2018 in Crl.O.P.No.15110 of 2018 i.e., the petitioner shall report before the respondent Police once in a week i.e., on every Saturday at 10.30 a.m., until further orders.

15.This criminal revision is allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
City Crime Branch,
Coimbatore City,
Crime No.26 of 2018.
Coimbatore District.

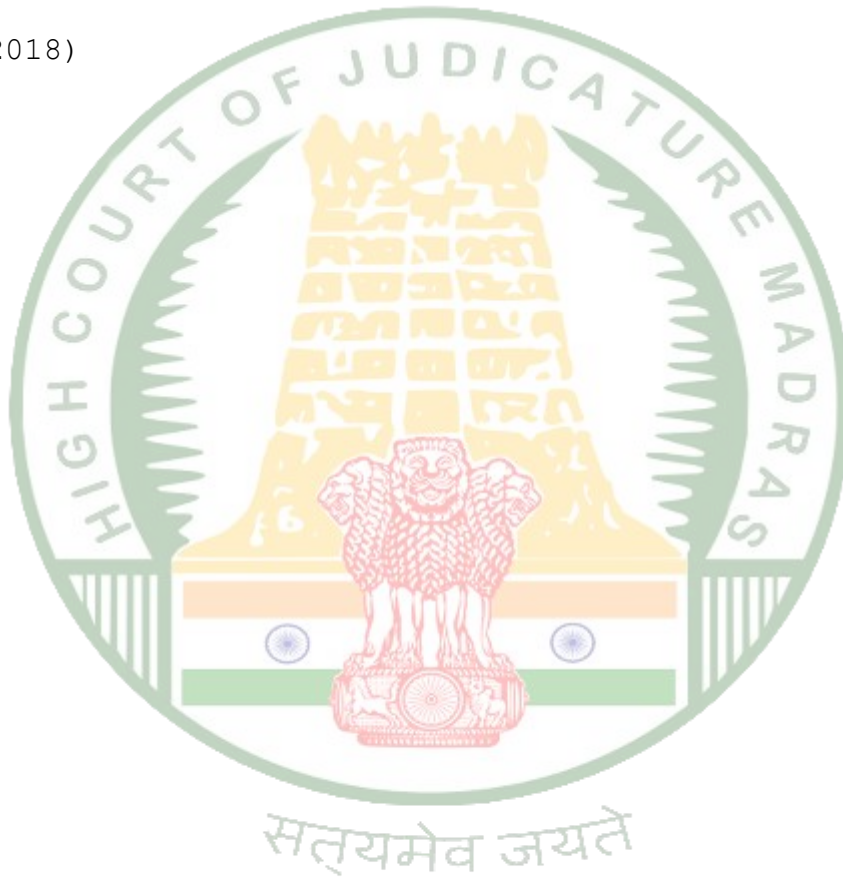
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2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.N.Manoharan, Advocate, S.R.No. 72808

Cr1.R.C.No.694 of 2018
And
Cr1.M.P.No.8089 of 2018

GJII (CO)
GN(13/11/2018)



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