

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2018

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.O.P.No.26180 of 2017

P.Velayudham

...Petitioner

Vs.

1.State, Rep. by
Inspector of Police,
CCB, Coimbatore City,
Coimbatore.

2.A.Kumarasivan

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(ii) of Cr.P.C., to cancel the bail granted to the 2nd respondent accused herein in Crl. MP.No.2859/2017 by the learned Principal District and Session Judge, Coimbatore by its order dated 13.11.2017.

For Petitioner : Mr.C.D.Johnson

For R1 : Mr.C.Iyyapparaj
Additional Public Prosecutor.

O R D E R

This criminal original petition has been filed seeking to cancel the bail granted on 13.11.2017 to the 2nd respondent/accused herein in Crl. MP.No.2859/2017, by the learned Principal District and Sessions Judge, Coimbatore.

2.The petitioner is the defacto complainant hailing from Madurai District and he was a retired school teacher. When he approached for securing a suitable job for his elder son, he got contact with one Manicam Iyyannar of Coimbatore, who promised to secure a government job for the defacto complainant's son through one Kumarasivam, residing at Coimbatore, who is politically influenced person, on demand of money. The defacto complainant had paid Rs.8,00,000/- on 13.02.2016 and Rs.7,00,000/- on 20.02.2016 in front of his two sons. Though

the respondent/accused received the said amount, he neither secured a job nor returned the amount received from the petitioner. Thereafter, upon continuous request, the said Kumarasivam returned Rs.4,00,000/- to the defacto complainant and undertook to return Rs.6,00,000/- on 20.08.2016 and another Rs.5,00,000/- on 25.08.2016 and also issued two post dated cheques. However, the cheques when presented for collection were returned for insufficiency of fund. Hence, the petitioner/defacto complainant lodged a complaint before the respondent police. After registration of complaint, the 2nd respondent/accused was arrested and remanded to judicial custody. Though, his first bail application was rejected, the bail application before the District and Sessions Judge, Coimbatore was considered and granted bail on 13.11.2017, on condition to execute a bond for Rs.10,000/- and to report before the respondent police daily at 10.30 a.m., until further orders.

3.I have perused the order of the learned district and Sessions Judge, Coimbatore and the facts remain that the petitioner had already received Rs.4,00,000/- from the accused and thereafter, he secured a cheque for Rs.11,00,000/-. Since, the cheque was dishonoured, the petitioner approached the lower court under Section 156(3), based on the direction of the lower Court, the respondent police had registered a case and arrested the accused. However, the petitioner instead of taking action under 138 of Negotiable Instruments Act, filing a complaint before the lower Court under Section 156(3) is not justifiable. Accordingly, I am not inclined to interfere with the order passed by the learned District and Sessions Judge, Coimbatore, in CrI.M.P.2859 of 2017 dated 13.11.2017. Hence, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. Inspector of Police,
CCB, Coimbatore City,
Coimbatore.

2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.26180 of 2017

GSP(20/09/2018)