

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2018

CORAM

THE HON`BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.No.1321 of 2018

S.Rajagpalan

... Petitioner/Accused A1

Vs

The Inspector of Police,
CCB, EDF-I,
Team - II,
Chennai 07.

... Respondent/ Complainant

Criminal Original Petition filed under Section 439 Cr.P.C to modify the conditions imposed by III Metropolitan Magistrate Court, George Town, by its order dated 04.03.2017 in Crl.M.P.No.317 of 2017 in Cr.No.278 of 2015 in C.C.No.7621 of 2017 in total.

For Petitioner : Mr.S.Kingston Jerold.

For Respondent : Mr.Iyyapparaj,
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to modify the conditions imposed by the learned III Metropolitan Magistrate Court, George Town in Crl.M.P.No.317 of 2017 in Cr.No.278 of 2015 in C.C.No.7621 of 2017, dated 04.03.2017.

2. The petitioner was arrested on 20.12.2016 for the offence under Sections 406, 420 and 465 of I.P.C in Crime No.278 of 2015.

3. The case of the prosecution is that the petitioner being a former employee of M/s. Sheriyas Stocks Private Limited, was involved in stock broking service to retail clients. The defacto complainant and his mother were holding shares and at the instance of the petitioner, they transferred their shares to the new employer of the petitioner namely M/s.Patersons Securities Private Limited. The petitioner unauthorisedly forged and fabricated certain documents and transferred the shares and obtained unlawful gain to the tune of Rs.30 lakhs.

Consequently, on the strength of the complaint given by the defacto complainant, a case was registered and the petitioner was arrested. Hence, the petitioner applied for bail before the learned III Metropolitan Magistrate, George Town, Chennai 01 and the same was dismissed. Thereafter, he was granted interim bail from 25.11.2015 to 26.01.2016 by the Principal Sessions Court, Chennai to enable the petitioner to settle the matter with the defaco complainant with a direction to surrender before the learned III Metropolitan Magistrate on 27.01.2016 at 10.30 a.m. Further, the Principal Sessions Court, Chennai granted extension of time to surrender before the learned III Metropolitan Magistrate on 11.02.2016. Aggrieved by the said order, the petitioner filed Crl.O.P.No.2849 of 2016 before this Court and the same was posted before the Tamil Nadu Mediation and Conciliation Centre for settlement. As the matter was not settled, the petitioner was again arrested on 14.04.2016. Again, he was granted interim bail by the order of this Court dated 26.05.2016 in Crl.O.P.No.10597 of 2017 to settle the admitted amount and due to non settlement, the said petition was dismissed.

4. Since the petitioner had not settled the amount, he was arrested on 20.02.2017. In such circumstances, the petitioner moved an application before the learned III Metropolitan Magistrate, George Town, Chennai under Section 167 (2) (a) of Cr.P.C. in Crl.M.P.No.317 of 2017 in Cr.No.278 of 2015 in C.C.No.7621 of 2017 seeking statutory bail, which was granted vide its order dated 04.03.2017 imposing the following conditions:

"a. The petitioner shall execute a bond for Rs.1 lakh together with two sureties each for likesum.

b. Both the sureties shall possess immovable properties in their name and the title deed value for the property shall be not less than Rs.30 lakhs.

c. The petitioner and one of the sureties or both the sureties shall surrender the original title deed of the immovable properties before this Court and the notice regarding the surrender of the title deeds of the immovable properties before this Court towards sureties shall be published by the petitioner or the sureties in any one of the leading newspapers within 15 days from the date of surrender of the title deed.

d. The petitioner shall deposit

Rs.10.lakhs before this Court in the account of Cr.No.278 of 2015, Central Crime Branch, EDF-1 Wing, Team II, Vepery, Chennai 07.

e. The petitioner shall co-operate for investigation and appear and signed before the respondent police on the 1st and 15th of every month until further orders."

5. As against the said order dated 04.03.2017, the petitioner filed Crl.M.P.No.3814 of 2017 in Crime No.278 of 2015 in C.C.No.7621 of 2017 on the file of the Metropolitan Magistrate, For Exclusive Trial of CCB cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Chennai and the same was dismissed on 15.11.2017. Hence, the petitioner filed the present petition to modify the order dated 04.03.2017 before this Court.

6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

7. The learned counsel for the petitioner submitted that the petitioner is unable to comply with the conditions imposed in Crl.M.P.No.317 of 2017 in Crime No.278 of 2015 in C.C.No.7621 of 2017 by the learned III Metropolitan Magistrate, Chennai since he has been continuously arrested again and again from 20.12.2016. The defacto complainant had also filed a Civil Suit in C.S.No.97 of 2015 against the petitioner and that the property belonging to him to the tune of Rs.43,94,465/- has been attached and hence, he is unable to furnish sureties and comply with the condition imposed by the Court below. The learned counsel further submitted that the conditions imposed in clause (b), (c) and (d) are very stringent and onerous and submitted that the continued detention in jail would amount to pre-trial conviction and therefore, he prayed this Court to modify the conditions imposed by the order dated 04.03.2017.

8. The learned Additional Public Prosecutor submitted that investigation has been completed and charge sheet has also been laid.

9. Taking into consideration the submissions made by the learned counsel on either side and the fact that the charge sheet has been laid and the property belonging to the petitioner has been attached, this Court is inclined to modify the clauses (b), (c) and (d). Accordingly, clauses (b), (c) and (d) shall stand deleted and substituted with the following clause:

"Since the charge sheet has been filed, the petitioner is directed to appear before the trial Court every day at 10.30 a.m until further orders".

This Criminal Original Petition is ordered accordingly.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cla

To

1.The Metropolitan Magistrate No.III,
George Town, Chennai.

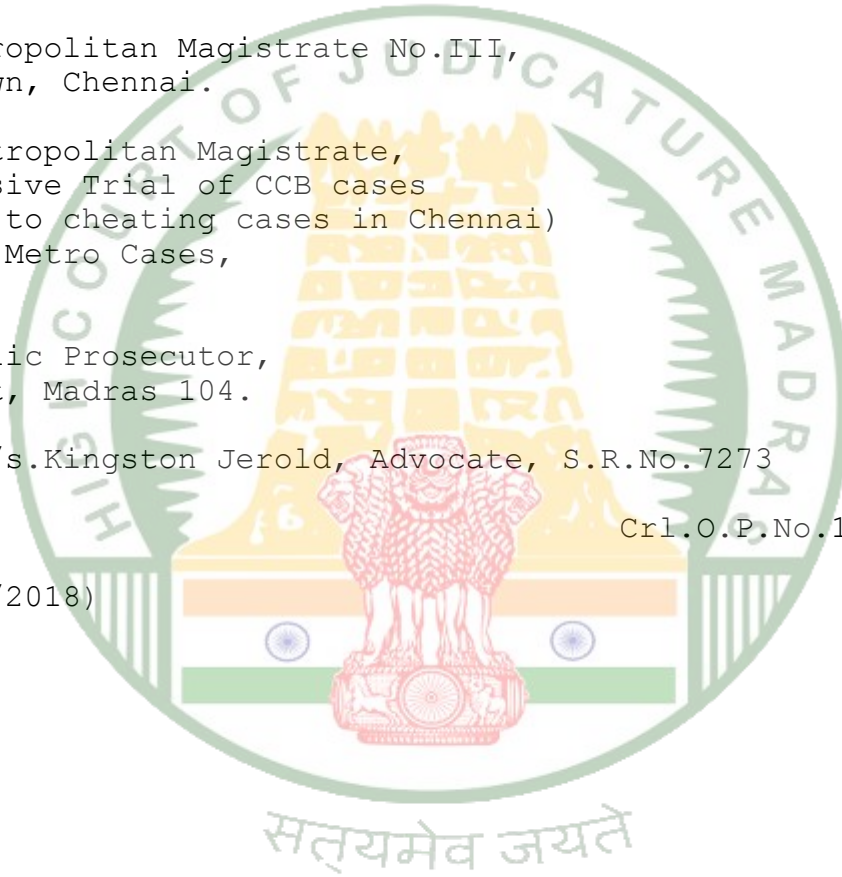
2. The Metropolitan Magistrate,
For Exclusive Trial of CCB cases
(relating to cheating cases in Chennai)
and CBCID Metro Cases,
Chennai.

3.The Public Prosecutor,
High Court, Madras 104.

+2cc to M/s.Kingston Jerold, Advocate, S.R.No.7273

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SR(CO)
RRK(06/02/2018)



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