

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Crl.O.P.No.1523 of 2018

Ramraj Pandey

.. Petitioner/Accused

Vs

The State Rep. by,
The Inspector of Police,
T2, Ambattur Estate Police Station,
Chennai - 600 058.
Crime No.1935 of 2017

.. Respondent/Complainant

Petition filed under Section 439(1)(b) read with Section 482 of the Criminal Procedure Code, to set aside the order passed by the Principal Sessions Judge at Thiruvallur in Crl.M.P.No.38 of 2018 dated 11.01.2018 and modify the conditions imposed by the learned Judicial Magistrate, Ambattur in C.M.P.No.4972 of 2017 dated 18.12.2017 in Crime No.1935 of 2017.

For Petitioner : Mr.N.Ganeshmurthy

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This is the petition filed under Section 439(1)(B) of the Code of Criminal Procedure to set aside the order passed by the Principal Sessions Judge, Thiruvallur made in M.P.No.38 of 2018 dated 11.01.2018 and to modify the bail condition imposed by the Judicial Magistrate, Ambattur in C.M.P.No.4972 of 2017, dated 18.12.2017 in Crime No.1935 of 2017.

2. The defacto complainant had given a complaint against the petitioner for the alleged offences under Sections 420 and 506(ii) IPC before the respondent police. Based on which, a case has been registered in Crime No.1935 of 2017. Accordingly, the petitioner had been arrested and he has been in jail for more than 40 days and therefore, he moved a bail application before the concerned Magistrate Court, who in turn,

while considering the grant of bail, by its order dated 18.12.2017, had imposed a condition that the petitioner shall deposit a sum of Rs.7,50,000/- into the Court and he shall appear before the Station House Officer everyday at 10.30 a.m. for 30 days.

3. Thereafter, it seems that some settlement entered into between the defacto complainant and the petitioner and in this regard, the defacto complainant also had filed an affidavit dated 05.01.2018 before the Principal Sessions Court, Thiruvallur, stating that the dispute between the parties have been settled out of Court on the intervention of the well wishers and family members. In the affidavit of the defacto complainant also he has stated that he did not want to pursue the matter further against the petitioner. On the strength of this affidavit filed by the defacto complainant and on the ground that the petitioner is not able to deposit such a huge sum of Rs.7,50,000/- in the Court account as directed by the learned Magistrate, as condition of bail, the petitioner moved an application before the Sessions Court, Tiruvallur, seeking modification of the order passed by the learned Magistrate imposing such a condition of depositing of the amount.

4. The learned Principal Sessions Judge, Thiruvallur, by an order dated 11.01.2018, has rejected the said petition by stating that the condition imposed by the learned Magistrate is not onerous and the alleged settlement reached between the parties outside the Court cannot be the ground for seeking modification of the bail condition imposed by the Magistrate.

5. Only in that circumstances, the present petition has been filed seeking modification of the said order of the learned Magistrate imposing condition for deposit of money.

6. I have heard Mr.N.Ganeshmurthy, learned counsel appearing for the petitioner as well as Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the respondent.

7. On perusal of the affidavit dated 05.01.2018, filed by the defacto complaint, it reveals that the dispute between the defacto complainant and the petitioner has already been settled between the parties outside the Court and in this regard, the defacto complainant has also stated in the affidavit that as of now, every dispute between the parties was settled and he was not inclined to proceed with the prosecution against the accused in Crime No.1935 of 2017 as the peaceful settlement has been arrived at between the parties.

8. Since the very defacto complainant had given a

sworn affidavit before the Court below, where, he has stated in clear term that issue has been settled between the parties, this Court feels that in that circumstances, directing the petitioner to deposit a sum of Rs.7,50,000/- as one of the bail condition is absolutely unnecessary besides the onerous nature of the same. However, this aspect has not been considered properly by the learned Principal Sessions Judge, Thiruvallur.

9. In view of the above , this Court is inclined to pass the following order :

(i) that the condition of deposit of Rs7,50,000/- imposed by the learned Judicial Magistrate, Ambattur in CrI.M.P. No.4972 of 2017 dated 18.12.2017 in Crime No.1935 of 2017 is hereby relaxed. However, the further condition that the petitioner shall report before the respondent daily at 10.30 a.m., for 30 days is hereby modified that he shall appear before the respondent as and when required.

10. With this modification, this petition is ordered.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Principal Sessions Judge,
Thiruvallur.
2. The Judicial Magistrate,
Ambattur.
3. The Inspector of Police,
T2, Ambattur Estate Police Station,
Chennai - 600 058.
4. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.N.Ganeshmurthy, Advocate, S.R.No.1331

CrI.O.P.No.1523 of 2018

SJ(CO)
CS/23/01/18