



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty First day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP (MD) No.1146 of 2018
IN
CRL OP (MD) No.12974 of 2015

BHARATHI

... PETITIONER/DE-FACTO COMPLAINANT/
INTERVENER

Vs

1 TAMILNESAN

... RESPONDENT/PETITIONER/ACCUSED

2 THE STATE REP.BY,

THE INSPECTOR OF POLICE

DISTRICT CRIME BRANCH, THANJAVUR DISTRICT,

CR.NO.21 OF 2015

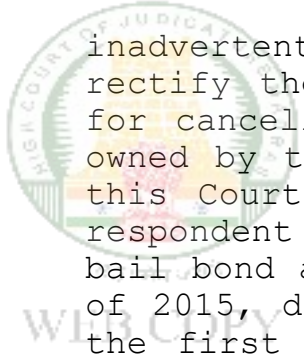
... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to set aside the order and cancel the order against the 1st respondent/ Accused NO.1 granted by this Honourable Court in Crl.O.P.(MD).NO. 12974 of 2015 dated 12.08.2015

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.MAHESWARAN, Advocate for the petitioner and of MR.A.ROBINSON, Government Advocate (Crl.side) for R2 and R1 not appeared either in person or by an advocate the court made the following order:-

This petition has been filed by the petitioner/defacto complainant, prayed to cancel the anticipatory bail granted in favour of the first respondent by this Court, vide order dated 12.08.2015, made in Crl.O.P(MD)No.12974 of 2015.

2.The learned counsel appearing for the petitioner/defacto complainant submitted that the petitioner is the defacto complainant in Crime No.21 of 2015, on the file of the respondent police. In the complaint lodged before the respondent police, the petitioner herein made allegations against the first respondent by mentioning that in a partition deed executed between the family members of the first respondent, which was registered in Document No.57 of 2012 at Thiruvonam, Sub Registrar Office, the property which belongs to the petitioner/defacto complainant was also included. After registration of the case, the first respondent herein moved the application before this Court in Crl.O.P(MD).No.12974 of 2015 for granting of anticipatory bail. During the time of enquiry in the above said application, the learned counsel appearing for the first respondent made representation before this Court that in Doc.No.57/2012, the property owned by the petitioner/defacto complainant was



inadvertently included. Further, the first respondent is ready to rectify the defects, for which, he filed an undertaking affidavit for cancelling the said partition deed in respect of the property owned by the first respondent. Based on the undertaking affidavit, this Court also granted anticipatory bail in favour of the first respondent and subsequent to that, the first respondent executed the bail bond as per order passed by this Court in Crl.O.P(MD).No.12974 of 2015, dated 12.08.2015. With regard to the undertaking given by the first respondent, in the counter itself he admitted that the error was committed due to oversight.

3.In the above circumstances, even after admitting the error, he refused to execute the rectification deed, is nothing but breach of undertaking. Now, it is necessary to extract the portion of the order passed by this Court in Crl.O.P(MD).No.8480 of 2015, dated 08.07.2015 as follows;

"5.Keeping the submissions made on either side, I have carefully gone through the entire materials available on record and I find that this Court has granted anticipatory bail to the first respondent only based on the undertaking given by him. Had the undertaking not been given by the first respondent, this Court might not have granted anticipatory bail to the first respondent. Now, after granting anticipatory bail, the first respondent is going back from his undertaking. Hence, the anticipatory bail already granted is liable to be cancelled".

4.Therefore, I am also taking the same view, which was taken by the brother Judge. So, the anticipatory bail already granted by this Court in favour of the first respondent in Crl.O.P(MD).No.12974 of 2015, dated 12.08.2015 is liable to be cancelled. Accordingly, the Criminal Miscellaneous Petition is allowed.

sd/-

21/03/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE, THANJAVUR.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
 - 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THANJAVUR DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.R.MAHESWARAN Advocate SR.No.4680

ORDER IN
CRL MP(MD) No.1146 of 2018 IN
CRL OP(MD) No.12974 of 2015
Date :21/03/2018