



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

Friday, the Twelfth day of January Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.236 of 2018
IN CRL OP(MD) No.16490 of 2017

1 S.VELKUMAR
2 SREE RENGANAYAGI

... PETITIONERS/PETITIONERS/
ACCUSED No.1 AND 2

Vs

STATE REP BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KANYAKUMARI, KANYAKUMARI DISTRICT,
CRIME NO.7 OF 2017

... RESPONDENT/RESPONDENT/
COMPLAINANT

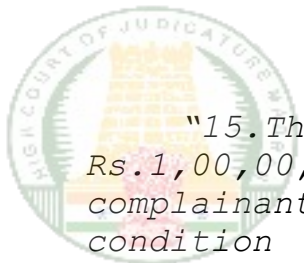
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to modify the condition (i) imposed by this Honourable Court in Crl.O.P.(MD).No.16490 of 2017, dated 14.12.2017 on the file of this Honourable High Court

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.R.ANBARASU, Advocate for the petitioners and of MR.K.SUYAMBULINGA BHARATHI, Government Advocate(Crl.side) on behalf of the Respondent the court made the following order:-

The submissions made by the learned counsel on either side are considered. While passing orders in Crl.O.P.(MD)No.16490 of 2017, this Court gave direction to the petitioners as well as the learned Judicial Magistrate as follows;

"(i) the petitioners are directed to return 17 sovereign of gold jewels to the defacto complainant within a period of two weeks from the date of receipt of copy of this order. After returning the jewels, the learned Judicial Magistrate shall accept the sureties furnished by the petitioners."

2. According to the prosecution, the investigation is not completed. There is no doubt that before concluding the trial, no Court shall come to a conclusion that the offender is found guilty. In the above situation, considering the Judgment reported in **2013 (11) SCALE 374** in **Sumit Mehta Vs. State of N.C.T of Delhi**, the Hon'ble Apex Court has held as follows;



"15. Thus, in the case on hand, fixed deposit of Rs.1,00,00,000/- for a period of six months in the name of the complainant and to keep the FDR with the investigating officer as a condition precedent for grant of anticipatory bail is evidently onerous and unreasonable. It must be remembered that the Court has not even come to the conclusion whether the allegations made are true or not which can only be ascertained after completion of trial. Certainly, in no words are we suggesting that the power to impose a condition of this nature is totally excluded, even in cases of cheating, electricity pilferage, white-collar crimes or chit fund scams etc."

3. Considering the above facts, this Court is decided to modify the earlier conditions as follows:

"The learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District is directed to accept the sureties furnished by the petitioner on or before 31.01.2018 without asking the compliance report with regard to the return of jewels."

4. Accordingly, this Criminal Miscellaneous Petition is allowed.

sd/-
12/01/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, NAGERCOIL, KANYAKUMARI DISTRICT
- 2 THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, KANYAKUMARI, KANYAKUMARI DISTRICT,
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT MADURAI

+1. C.C. to M/S.S.SURESH KUMAR Advocate SR.No.675

ORDER IN
CRL MP (MD) No.236 of 2018
IN
CRL OP (MD) No.16490 of 2017
Date :12/01/2018