



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.04.2018

DELIVERED ON : 25.06.2018

CORAM :

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl.R.C.(MD) No.221 of 2018

and

Crl.M.P.(MD) No.2894 of 2018

Imam Oli

... Petitioner

vs.

State represented by the
Deputy Superintendent of Police,
Mr.P.Arumugam,56/18
Pudukottai Sub-Division,
Pudukottai Distirct.
Crime No.13 of 2018

... Respondent

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to call for the records relating to the order dated 16.03.2018 made in Cr.M.P.No.669 of 2018 on the file of the Principal Sessions Judge (Special Court for Exclusive Trial of Cases under SC/ST (POA), Act, 1989 Pudukottai and allow the Criminal Revision Petition and to set aside the order passed by the Principal Sessions Judge (Special Court for Exclusive Trial of Cases under SC/ST (POA), Act, 1989 Pudukottai.

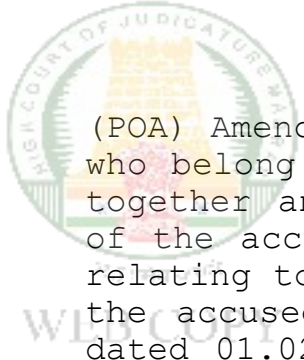
For Petitioner : Mr.V.Singan
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. Side)

ORDER

Heard Mr.V.Singan, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the respondent.

2.This petition has been filed to set aside the order passed in Cr.M.P.No.669 of 2018 dated 16.03.2018 on the file of the Principal Sessions Judge (Special Court for Exclusive Trial of Cases under SC/ST (POA), Act, 1989 Pudukottai.

3.The facts of the case are that on 22.01.2018, on the direction of this Court in Crl.O.P.(MD)NO.16062 of 2017, a case was registered against the petitioner in Crime No.13 of 2018 under Section 120(B), 420, 465, 468, 471 and 447 of IPC r/w. 3(1)(g) SC/ST



(POA) Amendment Act, 2015 with the motive to defraud the complainant who belong to Hindu Pallar community. The accused persons conspired together and create fabricated legal heirs Certificate in the name of the accused namely Pushparaj. A1 to A5 created forged documents relating to plot No.149 with a motive to defraud the complainant and the accused approached this Court in Crl. O.P.(MD)No.1510 of 2018 dated 01.02.2018 and this Court directed the PCR Court to consider the bail petition on their surrender. On 12.02.2018, all the accused surrendered before the PCR Court and the PCR Court remanded A1 and A2 and release A3 to A6 on bail. A1 and A2 were taken on police custody and their confession statement was recorded. On the basis of the confession statement, the police came to know that the third accused, namely, Imam Ali has created forged voter ID and Aadhar card and created forged seal of Pudukottai Tahsildar office and created Legal Heirs Certificate and patta in forged manner and as the police custody for A3 is necessary for the investigation and the respondent approached the PCR Court for cancellation of bail. In the meantime, the complainant also approached this Court in Crl.O.P.(MD) No.2706 of 2018 for the cancellation of bail for A3 to A6. It is stated that the cancellation of bail is granted only after granting bail if the accused is indulging in another crime or tampering the witness and that only in such circumstance, there is a provision for the police to approach the Court for cancellation of the bail. The cancellation of bail on the ground for granting police custody under Section 76 of Cr.P.C, is not necessary. Admission made before the Police Officers is not admissible in evidence. It is further stated that civil suit is pending in O.S.No.196 of 2017 on the file of the Sub Court, Pudukottai.

4.On the side of the appellant, it is stated that custodial interrogation is not necessary and the order of bail is only subject to appeal and it is not subject to revision. The PCR Court cannot cancel the bail and police custody is possible only under Section 173(c) of Cr.P.C., when the accused is in judicial custody.

5.On the side of the petitioner, he placed reliance on the judgment passed by the Hon'ble Supreme Court in the case of **The Public Prosecutor v. George Williams alias Victor** reported in **AIR (38) 1951 Madras 1042**, which reads as follows:

" (b) Criminal P.C.(1898), S. 497 - Cases where bail granted may be cancelled.

There are five cases where a person granted bail may have the bail cancelled and recommitted to jail:- (1) where the person on bail, during the period of bail, commits the very same offence for which he is being tried or has been convicted and thereby proves his utter unfitness, to be on bail: (2) if he hampers the investigation: (3) if he tampers with the evidence: (4) if he runs away to a foreign country, or goes under ground, or beyond the control of his sureties: and (5) if he commits acts of violence, in revenge, against the police and the



prosecution witness and those who have booked him or are trying to book him."

6. On the side of the respondent, it is stated that there are six accused in the case and the petitioner is A3. The petitioner and others obtained bail and they surrendered before the PCR Court and were released on bail. A1 and A3 were arrested and were taken into police custody. It is stated that in their confession, they have stated that the petitioner is the master mind in the crime. The petitioner created bogus ration card, Aadhar card and created documents with the forged seal of the Tahsildar and the offence are serious in nature and custodial interrogation is necessary and on the request of the respondent, the Special Court cancelled the bail order. It is further stated that only after the arrest of A1, the respondent came to know about the forged Legal Heir Certificate and forgery of the seal of the Tahsildar and they approached the Court for cancellation of bail.

7. On the side of the petitioner, he placed reliance on the judgment passed by the Hon'ble Supreme Court in the case of **Simranjit Singh Mann v. Union of India and another** reported in **AIR 1993 SUPREME COURT 280**, which reads as follows:

"Locus Standi - Criminal trial - Culminating in conviction and sentence of accused of accused - Party, a total stranger to prosecution - Cannot challenge conviction and sentence in petition under Article 32."

8. On the side of the petitioner, he placed reliance on the judgment passed by the Hon'ble Supreme Court in the case of **Kanwar Singh Meena v. State of Rajasthan and Another** reported in **AIR 2013 SUPREME COURT 296**, which reads as follows:

"Bail - Cancellation - Propensity of accused to tamper with evidence, interfere with the due course of justice, to flee from justice - Not the only considerations to cancel bail - It can be cancelled even if order granting bail is legally infirm leading to miscarriage of justice."

9. On the side of the petitioner, it is stated that the respondent filed a petition under Section 167(3) of Cr.P.C., which is wrong. On the side of the respondent, it is stated that the complainant in his case has filed CrI.O.P.(MD)No.2706 of 2018 which is pending before this Court.

10. Records perused. From the perusal of the records, it is clear that a civil suit is pending between the parties. The petitioner has filed petition only under Section 167(3) of Cr.P.C., which is not the provision for cancellation of bail and the prayer is not for police custody. As Criminal Original Petition is pending before this Court, this Criminal Revision Case is allowed without prejudice to the order to be passed in the



Criminal Original Petition. Consequently, Crl.M.P.(MD) No.2894 of 2018 is closed.

Sd/-
Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
(Special Court for Exclusive Trial of
Cases under SC/ST (POA), Act, 1989, Pudukottai.
2. The Deputy Superintendent of Police,
Pudukottai Sub-Division,
Pudukottai Distirct.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

MRN
RJ/RP/SAR-3/17/07/2018 - 4P/4C

Crl.R.C. (MD) .No.221 of 2018
25.06.2018