



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.737 of 2017

and

Crl.MP(MD).No.8565 of 2017

1.Kannan

2.Arun

3.Thirunavukkarasu

:Petitioners/Respondents 1 to 3/
Accused.

Vs.

1.State, rep by the Inspector of Police,
Adhanakottai Police Station,
Pudukkottai District.

[Crime No.104 of 2017].

:1st Respondent/4th Respondent/
Complainant.

2.Palanivel

:2nd Respondent/Petitioner/
Defacto Complainant[R-2 impleaded vide order dated 10.10.2017 in Crl.MP(MD).No.9257 of
2017 in Crl.RC(MD).No.737 of 2017]PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of
the Criminal Procedure Code praying to call for records of the
learned Principal District and Sessions Judge, Pudukkottai in
Cr.MP.No.1447 of 2017 and set aside the order dated 12.09.2017.

For Petitioner

: Mr.D.Rameshkumar

For Respondent No.1

: Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

For Respondent No.2

: No Appearance

ORDER

On the complaint given by Palanivel, the respondent police
registered a case in Crime No.104 of 2017, on 18.08.2017, under
<https://hservices.ecourts.gov.in/hservices/>
Sections 147, 148, 341, 324, 307 and 506(ii) of the Indian Penal
Code.

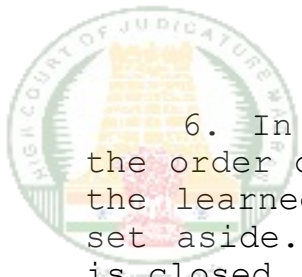


2. It is the case of the de facto complainant - Palanivel that the petitioners herein and the other accused had attacked his son - Karthikeyan brutally, on account of which Karthikeyan was admitted in the hospital with serious injuries. The police arrested the petitioners on 18.08.2017 and they were remanded to judicial custody. The petitioners filed Cr.MP.No.1382 of 2017 for bail, in which the learned Principal District and Sessions Judge, Pudukkottai, granted bail, by order dated 30.08.2017, pursuant to which the petitioners were released on bail. Thereafter, the de facto complainant - Palanivel filed CrI.MP.No.1447 of 2017 under Section 439 of the Code of Criminal Procedure for cancellation of bail on the ground that the Public Prosecutor, in charge of the case, had misrepresented to the Court that the victim was discharged from the hospital and on that ground, bail was granted erroneously to the petitioners/accused. The learned Principal District and Sessions Judge, Pudukkottai, by order dated 12.09.2017, in Cr.MP.No.1447 of 2017, has cancelled the bail, aggrieved by which, the petitioners/accused are now before this Court with this Criminal Revision Case.

3. Court notice was served on Palanivel and he has not appeared. His name is printed in the cause list. His name was called out thrice. There is no representation.

4. The fact remains that when the bail application was filed by the petitioners/accused in Cr.MP.No.1382 of 2017, they were inside the jail and therefore, there is no possibility of them knowing as to whether the injured was discharged from the hospital or not. It must be remembered that the petitioners/accused were not granted Anticipatory Bail, but were granted regular bail, after having been in jail for more than twelve days. For the mistake committed by the Public Prosecutor, in-charge of the case, the petitioners/accused cannot be penalized.

5. Mr.C.Mayil Vahana Rajendran, learned Additional Public Prosecutor, on instructions from Mr.SM.Hajamohideen, Sub-Inspector of Police, Adhanakottai Police Station, who is present in Court today, submitted that the police had given written instructions to the District Public Prosecutor of the Sessions Court that the victim is still in the hospital, despite which, he had represented that the victim had been discharged. Hence, it is always open to the administration to take appropriate action against the District Public Prosecutor concerned for not having properly represented to the Court. That cannot be a good reason to cancel the bail that has been granted to the petitioners. It is a trite law that the parameter for grant of bail is one thing and the parameter for cancellation of bail is another aspect. There should be strong circumstances for cancellation of the bail, that has been granted to the petitioners/accused. Unfortunately, such circumstance does not exist in this case.



6. In the result, this Criminal Revision Case is allowed and the order dated 12.09.2017, made in Cr.MP.No.1447 of 2017, passed by the learned Principal District and Sessions Judge, Pudukkottai, is set aside. Consequently, connected Criminal Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1.The Principal District and Sessions Judge,
Pudukkottai.

2. The District Collector, Pudukkottai.

3.The Inspector of Police,
Adhanakottai Police Station,
Pudukkottai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer
Criminal Section,
Madurai Bench of Madras High Court,
Madurai(2 Copies)

+1CC to Mr.D.Rameshkumar, Advocate, SR.No.40201

ORDER MADE IN
Crl.R.C. (MD) No.737 of 2017
Dated:-
03.01.2018

NB

AM/JC/SAR 2/22.02.2018/2P/8C