

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 19.02.2018****CORAM:****THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Cr1.R.C. (MD) No.790 of 2017**

1.Ashok Kumar

2.Valambal

... Petitioners / Respondents 2 & 3

vs.

1.A.Mohammed Athusin

... 1st Respondent/Petitioner

2.State Represented by

The Inspector of Police,

K.K.Nagar Police Station,

Trichy.

(Crime No.272 of 2015)

... 2nd Respondent / 1st Respondent

PRAYER: Criminal revision filed, under Section 397 r/w 401 Cr.P.C., to set aside the order passed in Cr.M.P.No.957 of 2017 on the file of the Principal Sessions Court, Trichy, dated 23.08.2017 and allow the Criminal Revision Petition.

For Petitioners

: Mr.C.Vakeeswaran

For 1st Respondent

: Mr.S.Satheesh Kumar

For 2nd Respondent

: Mr.S.Bharathi

Government Advocate (Criminal side)

O R D E R

On 10.01.2018, this Court passed the following order:

"The petitioners were granted Anticipatory Bail in Cr.M.P.No.1225 of 2015 in connection with Crime No.272 of 2015 in K.K.Nagar (Crime) Police Station, Tiruchirappalli, on 27.05.2015, by the Sessions Court, Tiruchirappalli, on condition that the petitioners shall surrender before the learned Judicial Magistrate No.II, Tiruchirappalli, on or before 10.06.2015 and execute a bond for Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Tiruchirappalli.

2. After obtaining the anticipatory bail orders, the petitioners surrendered before the learned Judicial Magistrate No.II, Tiruchirappalli and executed a bond for a sum of Rs.10,000/- with two sureties, which was accepted by the learned Magistrate.

<https://hcservices.ecourts.gov.in/hcservices/> 3. Thereafter, the *de-facto* complainant in Crime No.272 of 2015 conducted some enquires



and found that the petitioners had furnished bogus certificates and therefore, the *de-facto* complainant lodged a complaint, based on which, a case in Crime No.555 of 2017 has been registered on 02.08.2017, under Sections 420, 467, 468 and 471 of the Indian Penal Code, against the petitioners herein and four others.

4. The *de-facto* complainant filed an application in Cr.M.P.No.957 of 2017 before the Sessions Court, Tiruchirappalli, under Section 439(2) of the Code of Criminal Procedure for cancellation of Anticipatory Bail that was granted to the petitioners, on the ground that the petitioners had furnished bogus certificates and had mislead the Magistrate.

5. The learned Sessions Judge, by order dated 23.08.2017, in Cr.M.P.No.957 of 2017, cancelled the Anticipatory Bail that was granted to the petitioners, challenging which, the petitioners are before this Court.

6. The learned Counsel for the petitioners submitted that the First Information Report in Crime No.555 of 2017 was registered on 02.08.2017 and the same was not taken into consideration by the Sessions Court while passing the orders on 23.08.2017, in Cr.M.P.No.957 of 2017.

7. Be that as it may, this Court wants to satisfy its judicial conscience as to whether bogus certificates were produced by the sureties.

8. Therefore, this Court directs the learned Judicial Magistrate No.II, Tiruchirappalli to keep all the records relating to the bail bond and surety certificate in safe custody. The learned Judicial Magistrate No.II, Tiruchirappalli is directed to take photocopies of the same and conduct a preliminary enquiry, in order to ascertain as to whether the solvency certificates that were submitted along with the surety bond were genuine or bogus.

9. After conducting preliminary enquiry, the learned Judicial Magistrate No.II, Tiruchirappalli is directed to send a comprehensive report to this Court, enclosing the photocopies of the bail bond, surety bond,



solvency certificate and other relevant records. Report shall reach this Court on or before 12.02.2018.

10. Post the matter on 12.02.2018.

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11. Interim order of stay, already granted in Crl.M.P(MD)No.9499 of 2017 in Crl.R.C (MD)No.790 of 2017, is extended till then."

2. Pursuant to the above order, the learned Judicial Magistrate No.2, Tiruchirappalli has conducted a thorough enquiry and sent a report dated 08.02.2018, wherein he has stated as follow:

"I further submit that On 05.02.2018, the deputy Tahsildar, Srirangam is appeared and his statement also recorded. According to his statement, The Family cards produced by the sureties Manoharan, Sekar, Rajendran and Natarajan are genuine, all Solvency Certificates and Voters Identity cards of one Natarajan are bogus.

I humbly further submit that the Secretary to Pazhur Panchayat is appeared and his statement is recorded. According to his statement, All House tax receipts submitted by Sureties Rajendran, Natarajan, Sekar and Manoharan are bogus and fabricated.

I most humbly submit that the Except the family cards submitted by Sureties Rajendran, Natarajan, Sekar and Manoharan all other Solvency Certificates, House Tax receipts, Voters ID card of Natarajan are found to be bogus and fraudulently created. I am also submitting here with photo copies of Bail bonds, sureties Affidavits, Solvency Certificates, House tax receipts, Voter ID cards and family cards.

This is for favour of your Honour's kind consideration."

3. On 12.02.2018, this Court passed the following order:

"On the directions of this Court, the learned Judicial Magistrate No.II, Tiruchirapalli has sent a detailed report stating that some of the documents submitted by the sureties were bogus.

Copies of the report dated 08.02.2018 along with enclosures have been furnished to the learned counsel for the petitioner, learned counsel for the respondent and the police.



At request of the learned counsel for the petitioner, this case is adjourned to 19.02.2018 under the caption "for orders".

4. From the report submitted by the learned Judicial Magistrate No.2, Tiruchirappalli, it is obvious that the petitioners have submitted bogus and fabricated documents to show the solvency of two sureties. In such view of the matter, no indulgence can be shown to the petitioners. A person who seeks relief from a Court should come to the Court with clean hands.

5. In the result, this Criminal Revision Case is devoid of merits and the same is dismissed and the order dated 23.08.2017 passed in Cr.M.P.No.957 of 2017 by the Principal Session Judge, Tiruchirappalli stands confirmed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal Sessions Judge,
Tiruchirappalli.
2. The Judicial Magistrate No.II,
Tiruchirappalli.
3. The Inspector of Police,
K.K.Nagar Police Station,
Trichy.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Vakeeswaran, Advocate Sr.No.49733
+1cc to Mr.S.Satheesh Kumar, Advocate Sr.No.50032

SJ

VB/CVC/SAR3/01.03.2018/4P/7C

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19.02.2018