



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD) Nos.882 & 883 of 2017
and
Crl.M.P.(MD) Nos.10820 & 10821 of 2017 respectively

M.Murugan

... Petitioner / Accused
in both Crl.R.Cs.

vs.

Inspector of Police
Palayamkottai Police Station
Palayamkottai
(Crime No.726 of 2017)

... Respondent / Complainant in
Crl.R.C.(MD) No.882 of 2017

Ramasamy

... Respondent / Complainant in
Crl.R.C.(MD) No.883 of 2017

PRAYER (in Crl.R.C.(MD) No.882 of 2017): Criminal revision filed, under Sections 397 and 401 Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No.5998 of 2017, on 17.11.2017, by the learned Judicial Magistrate No.I, Tirunelveli, and set aside the same.

PRAYER (in Crl.R.C.(MD) No.883 of 2017): Criminal revision filed, under Sections 397 and 401 Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No.5999 of 2017, on 17.11.2017, by the learned Judicial Magistrate No.I, Tirunelveli, and set aside the same.

For Petitioner : Mr.L.Shaji Chellan
(in both Crl.R.Cs.)

For Respondent : Mr.M.Asokan
(Crl.R.C.(MD) No.882 of 2017)

Government Advocate (Crl.Side)

For Respondent : No appearance
(Crl.R.C.(MD) No.883 of 2017)

C O M M O N O R D E R

On the complaint lodged by one Ramasamy, the respondent - Police registered a case in Crime No.726 of 2017, on 21.09.2017, under Sections 188, 500, 504 and 505(1)(b) I.P.C., against Murugan. It is the case of the *de facto* complainant that he is doing real estate business; that he went to the Taluk Office, Palayamkottai on 14.09.2017 around 04.30 p.m.; that members of Teachers Federation were holding Dharna; that he heard Murugan making disparaging remarks about High Court Judges and hence the complaint and the consequent F.I.R. After registration of the complaint, Murugan was arrested and remanded to custody on 22.09.2017. Murugan filed a petition in Cr.M.P.No.5119 of 2017 for bail, in which, the learned Judicial Magistrate No.I, Tirunelveli, granted bail on 25.09.2017, on condition that he should appear before the respondent - Police daily at 10.00 a.m., until further orders. After his release from custody, Murugan appeared before the respondent - Police and complied with the conditions. Thereafter, he filed a petition in Cr.M.P.No.5230 of 2017, before the learned Judicial Magistrate No.I, Tirunelveli, seeking for relaxation of the conditions imposed while granting bail and by order dated 05.10.2017, the learned Judicial Magistrate No.I, Tirunelveli, relaxed the conditions completely. Thereafter, the respondent - Police filed a petition in Cr.M.P.No.5998 of 2017, before the learned Judicial Magistrate No.I, Tirunelveli, seeking for cancellation of bail granted to Murugan on the ground that he did not co-operate with the investigation and that he is misusing his liberty and tampering with the evidence.

2. Similarly, Ramasamy / *de facto* complainant filed a petition in Cr.M.P.No.5999 of 2017, before the learned Judicial Magistrate No.I, Tirunelveli, seeking for cancellation of bail granted to Murugan, on the ground that he is threatening him and asking him to withdraw the complaint. The learned Judicial Magistrate No.I, Tirunelveli, heard both sides and by a common order dated 17.11.2017 in Cr.M.P.Nos.5998 and 5999 of 2017 cancelled the bail that was granted to Murugan. Challenging the same, Murugan has filed the present criminal revision petitions.

3. Notice has been served on Ramasamy / *de facto* complainant in Cr1.R.C.(MD) No.883 of 2017, and he has not entered appearance.

4. Heard Mr.L.Shaji Chellan, learned counsel for Murugan and Mr.M.Asokan, learned Government Advocate (Criminal Side) for the respondent - Police.

5. It appears that the petition for cancellation of bail has been filed without any supporting affidavit of the Investigation Officer. The petition for cancellation of bail has been filed by



the Assistant Public Prosecutor, wherein in Paragraph No.3 it is stated as follows:

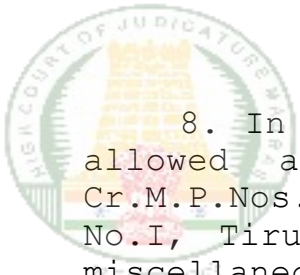
"3.After that the respondent / Accused was granted bail by the Honourable Court. As per the remarks given by the Police, the respondent / Accused did not co-operate the investigation. Hence, the investigation is pending and also the respondent / accused tempering the witnesses and misutilising his liberty. To avoid law and order problem it is just and necessary to cancel the bail granted to the respondent / accused to avoid the delay in further proceedings of the case."

Whereas, in the impugned common order dated 17.11.2017, the learned Judicial Magistrate No.I, Tirunelveli, has stated as follows:

"From the perusal of the documents produced by the learned APP, it is clear that inspector of police, palayamkottai police station has issued notice U/s.160 of Crpc, to Respondent/Accused to appear before the police station on 4.11.2017 at 10.00 AM for the purpose of investigation. In the above notice, it is stated that the accused has refused to receive the notice."

6. It is not known how the learned Judicial Magistrate entertained the documents that were produced by the learned Additional Public Prosecutor without the supporting affidavit of the Investigation Officer. The allegation made in the F.I.R., against Murugan is that he had made derogatory references to the Judiciary in a public meeting that is said to have been heard by Ramasmy / de facto complainant. The offence is complete then and there and what remains is completion of investigation by recording the statement of the witnesses and filing of charge sheet or closure report as the case may be. Admittedly, Murugan was arrested and later on, he was released on bail. The parameters for granting of bail are different from the parameters for cancellation of the bail already granted. A vague observation by the Police that they had sent notice, under Section 160 Cr.P.C., to the accused asking him to appear on 04.11.2017 and that he did not appear on that date by itself is not enough to cancel the bail already granted and put a person in jail. As regards the petition filed by Ramasamy / de facto complainant is concerned, he has stated in the petition that after release on bail, Murugan came to his house and asked him to withdraw the complaint. But, he has not even given the date and time of the alleged incident in his petition. In such view of the matter, this Court is of the view that this is not a fit case, in which the bail that was granted to Murugan deserves to be cancelled.

7. Mr.R.Vel Kumar, Sub Inspector, Palayamkottai Police Station, Tirunelveli, is present before this Court. On his instructions, the learned Additional Public Prosecutor submitted that Murugan appeared before the respondent - Police from 03.01.2018 till 09.01.2018.



8. In such view of the matter, both the revision petitions are allowed and the common order, dated 17.11.2017, passed in Cr.M.P.Nos.5998 and 5999 of 2017, by the learned Judicial Magistrate No.I, Tirunelveli, is hereby set aside. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Judicial Magistrate No.I,
Tirunelveli.
- 2.Do through the Chief Judicial Magistrate,
Tirunelveli
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Inspector of Police,
Palayamkottai Police Station,
Palayamkottai.

+2ccs to Mr.L.Shaji Chellan, Advocate, SR.Nos.41443 41444

krk
RL/7C/4P/SV/MMS/SAR1/17/1/2018

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and
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