



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

Friday, the Twenty Fifth day of January Two Thousand Nineteen

PRESENT

THE HON'BLE MR JUSTICE R.MAHADEVAN
and
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

CRL MP(MD) No.5969 of 2018

IN

CRL OP(MD) No.6779 of 2018

K.K.RAJA

... PETITIONER/ PETITIONER

Vs

1 STATE REP.BY
THE INSEPCTOR OF POLICE
CBCID, IDOL WING, CHENNAI,
(OVER ALL SUPERVISORY OFFICER
IN IW-CID),
I.G.P SPECIAL CAMP OFFICE,
TRICHY.
FIR NO. 1 OF 2018

2 THE INSEPCTOR OF POLICE
CBCID, CHENNAI.

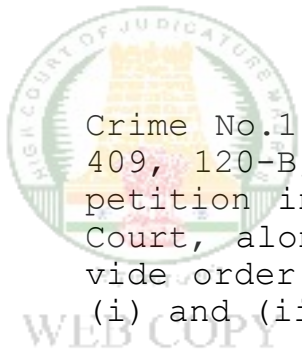
... RESPONDENTS/ RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to modify the condition NO.(ii) in Crl.O.P(MD).No.6779/2018 dated 26/04/2018 by fixing a reasonable amount towards cost for the surveillance of police personnel as far as the petitioner in concerned.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.RAJARATHINAM, Advocate for the petitioner and of Mr.C.IYYAPPARAJ, Additional Public Prosecutor on behalf of the Respondents, the court made the following order:-

This Miscellaneous Petition has been filed by the petitioner seeking modification of the order dated 26.04.2018 passed by this Court in Crl.OP (MD)No.6779 of 2018 insofar as it directs the petitioner to bear the cost in regard to deploying police personnel for surveillance duty.

2.According to the petitioner, he was arrested and remanded to judicial custody on 26.03.2018 in connection with a case in



Crime No.1 of 2018 for the offences punishable under Sections 403, 409, 120-B, 418, 420 and 477-A IPC. Subsequently, he moved a bail petition in Crl.OP.(MD) No.6779 of 2018, which was allowed by this Court, along with another petition in Crl.OP (MD) No.6778 of 2018, vide order dated 26.04.2018, subject to certain conditions, Clauses (i) and (ii) of which read as follows:

"(i)The petitioner in Crl.OP (MD) No.6778 of 2018 (first accused) shall reside only at Chennai and shall not move out of Chennai for a period of 90 days. The petitioner in Crl.OP (MD)No.6779 of 2018 (second accused) shall reside at Coimbatore and shall not leave the City limits of Coimbatore for a period of 90 days.

(ii)Both shall be under surveillance of the police personnel personally chosen by Thiru A.G.Pon Manickavel, Inspector General of Police, Railways, i/c Idol Wing CID. The cost of providing such police personnel shall be by the petitioners."

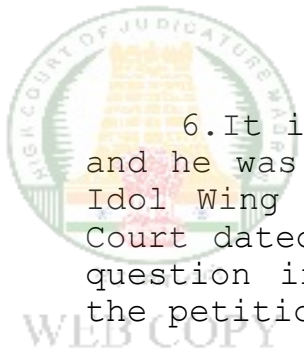
Pursuant to the aforesaid order, the petitioner was enlarged on bail and he was under surveillance of the police personnel chosen by the Idol Wing CID. Thereafter, he received a communication dated 14.07.2018 from the Deputy Superintendent of Police, Idol Theft Preventive Wing, South Zone, directing him to pay a sum of Rs.7,54,250/- representing the charges for deployment of police personnel for surveillance duty. Aggrieved over the same, the petitioner is before this Court with the present Miscellaneous Petition for the above stated relief.

3.The learned counsel for the petitioner submitted that the charges determined in the said communication were based on G.O.Ms.No.249 Home (Pol.VIII) Department, dated 21.03.2017, which applies to provision of security by police for bandobust duty for private mega events from the departments /Undertakings of Central and State Government, Banks, etc., whereas, in the present case, the first respondent deployed the police personnel for surveillance duty and the petitioner provided them food, beverages and accommodation; in such event, the charges demanded from the petitioner, that too, an exorbitant amount, is arbitrary, illegal and without any basis. Hence, the learned counsel prayed for appropriate modification in this petition.

4.On the other hand, the learned Additional Public Prosecutor appearing for the respondents submitted that when the petitioner has given an undertaking that he would abide by any of the conditions imposed by this Court, for considering his bail petition favourably, he cannot be now heard to contend that the charges imposed on him for providing police personnel for surveillance duty, is arbitrary, illegal and onerous.

<https://hcservices.ecourts.gov.in/hcservices/>

5.Heard both sides and perused the records.



6.It is not in dispute that the petitioner was released on bail and he was under surveillance of the police personnel chosen by the Idol Wing CID for a period of 90 days, as per the order of this Court dated 26.04.2018 in CrI.OP(MD)No.6779 of 2018. What is put to question in this petition is the quantum of charges demanded from the petitioner for providing police personnel for surveillance duty.

7.The issue involved herein was considered and decided by this Court in favour of the petitioner therein, vide order dated 25.01.2019 in WP.No.27588 of 2018, which was filed by the co-accused in Crime No.1 of 2018. The relevant paragraphs of the said order are profitably extracted hereunder:

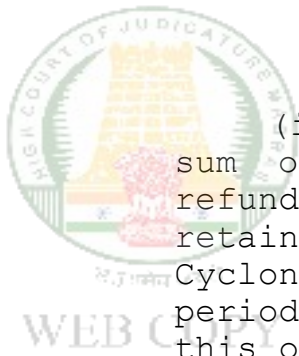
"8.From a reading of the communication impugned herein, it is evident that the second respondent arrived at the sum of Rs.7,54,250/- for payment to the police personnel deployed for surveillance duty, on the basis of G.O.Ms.No.249 Home (Pol.VIII) Department, dated 21.03.2017, a cursory glance at the contents of which would reveal that the aforesaid order provides for calculation of the charges for providing bandobust for private mega events from the Departments / Undertakings of Central and State Government, Banks etc.

9.Such being the case, this Court is of the view that the aforesaid Government Order cannot be cited as a precedent for determining the charges payable by the petitioner, as the purpose for which the police personnel deployed in the present case is entirely different from the purpose stated thereunder. It is nonetheless important to mention at this juncture that the petitioner provided accommodation, food and beverages to the police personnel deployed for surveillance duty. Hence, the impugned communication issued by the second respondent is arbitrary, illegal and without any basis and the same is liable to be set aside.

10.However, it may not be out of place to state here that the petitioner, at the time of hearing of his bail petition, has, in unequivocal terms, given an undertaking that he would abide by any condition imposed by this Court. As such, the undertaking so given by the petitioner cannot be slightly wished away. Therefore, this Court deems it appropriate to direct the petitioner to pay a reasonable sum towards costs.

11.Accordingly, this writ petition stands disposed of, in the following terms:

(i)The impugned communication dated 14.07.2018 issued by the second respondent is set aside.



(ii) Since the petitioner has already paid the demanded sum of Rs.7,54,250/-, the respondents are directed to refund a sum of Rs.6,54,250/- to the petitioner, after retaining a sum of Rs.1,00,000/- towards costs to the Cyclone Gaja, Chief Minister's Public Relief Fund, within a period of two weeks from the date of receipt of a copy of this order."

8. In the considered opinion of this Court, having regard to the fact that the petitioner herein is the similarly placed person and applying the aforesaid proposition, the order dated 26.04.2018 passed by this Court in Crl.OP (MD) No.6779 of 2018 stands modified, insofar as it directs the petitioner to bear the cost in regard to deploying police personnel for surveillance duty.

9. Accordingly, this miscellaneous petition stands disposed of, by directing the petitioner to pay a sum of Rs.1,00,000/- towards costs to the Cyclone Gaja, Chief Minister's Public Relief Fund, within a period of two weeks from the date of receipt of a copy of this order.

sd/-
25/01/2019

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

TO

- 1 THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
KUMBAKONAM (FAC).
- 2 THE INSEPCTOR OF POLICE
CBCID, IDOL WING, CHENNAI,
(OVER ALL SUPERVISORY OFFICER
IN IW-CID), I.G.P SPECIAL CAMP OFFICE,
TRICHY.
- 3 THE INSEPCTOR OF POLICE
CBCID, CHENNAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DISTRICT COLLECTOR,
MADURAI DISTRICT.

+1. C.C. to Mr.R.RAJARATHINAM Advocate SR.No.1501

ORDER IN
CRL MP(MD) No.5969 of 2018 IN
CRL OP(MD) No.6779 of 2018
Date :25/01/2019