

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.Nos.1678 of 2019 & 24430 of 2018

M.Kaliyaperumal

... Petitioner in both Crl.O.Ps/Defacto Complainant

Vs.

1. State Represented by
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.

... Respondent/Complainant in both Crl.O.Ps

2. Vignesh

3. Vembhu

... Respondents/Accused A2 & A3 in
Crl.O.P.No.1678 of 2018

2. Rangaraj

... Respondents/Accused in
Crl.O.P.No.24430 of 2018

Prayer in Crl.O.P.No.1678 of 2018: Criminal Original Petition is filed under Section 439 (2) of the Code of Criminal Procedure, to cancel the order of bail granted to the second and third respondents/A2 and A3 vide order dated 04.06.2018 in Crl.M.P.No.987 of 2018 on the file of the District and Principal Sessions Judge, Ariyalur in Crime No.187 of 2018 on the file of the first respondent police.

Prayer in Crl.O.P.No.24430 of 2018: Criminal Original Petition is filed under Section 439 (2) of the Code of Criminal Procedure, to cancel the order of bail granted to the second respondent/A1 vide order dated 17.05.2018 in Crl.M.P.No.909 of 2018 on the file of the Additional District Sessions Judge (Vacation Sessions Judge), Ariyalur in Crime No.187 of 2018 on the file of the first respondent police.

For Petitioner
in both CrI.O.Ps : Mr.V.Kannadasan
For R1 in both CrI.O.Ps : M/s.M.Prabhavathi
Additional Public Prosecutor

C O M M O N O R D E R

These Criminal Original Petitions have been filed seeking for cancellation of bail granted in favour of the second respondent in CrI.O.P.No.24430 of 2018 and second and third respondents in CrI.O.P.No.1678 of 2019.

2. The respondent police registered an FIR against the accused persons for the offence under Sections 294 (b), 324, 506 (ii) IPC r/w. 3(1), (r,s), (v,a) of SC/ST (POA) Act, 1989. The accused persons had surrendered and filed a petition for bail and the Court below has allowed the bail petitions mainly on the ground that the matter has been compromised between the parties and the injured has already been discharged from the hospital.

3. Mr.V.Kannadasan, learned counsel appearing on behalf of the petitioner primarily made two submissions while challenging the order passed by the Court below. The first submission that was made by the learned counsel for the petitioner is that the Court below failed to follow the mandatory requirement under Sections 15 (A) of the SC/ST Act. This provision mandates issuance of notice to the victim/defacto complainant before any orders are passed in the bail application. The second submission that was made by the learned counsel for the petitioner is that the bail order was passed on 17.05.2018 in the morning. However, the discharge summary clearly shows that the victim was discharged on 17.05.2018 only at 5.00 p.m., Therefore, the learned counsel for the petitioner submitted that a false representation has been made before the Court below and bail order has been obtained by the accused persons.

4. The learned counsel appearing on behalf of the accused persons submitted that there was in fact a compromise between the parties. In order to substantiate the said argument, the learned counsel submitted that the FIR was registered against the petitioner also in Cr.No.188 of 2018 and the petitioner also filed an Anticipatory Bail petition before the very same Court. In the order passed in the Anticipatory Bail petition, the counsel representing the petitioner had clearly stated the matter has been compromised between the parties. Therefore, he submitted that when it came to the bail petition of the petitioner, the petitioner took one stand and when it came to the bail petition of the accused persons, he wants to wriggle

out of that stand. He further submitted that the investigation has been completed and final report has already been filed by the respondent police and the same has been taken on file by the Special Court in Spl.S.C.No.38 of 2018. Therefore, he submitted that there are no grounds to cancel the bail granted in favour of the accused persons.

5. This Court carefully considered the submissions made on either side. On a prima facie reading of the order passed by the Court below, this Court is convinced that the order was passed without issuance of notice to the petitioner and the same is in direct violation of Section 15 (A) of the SC/ST Act. Under normal circumstances, this Court would have cancelled the bail and directed the accused persons to surrender before the Court below and directed the Court below to consider the bail petition after issuing notice to the victim. However, in view of the subsequent development that has taken place in this case wherein the investigation itself has been completed and final report has been filed in the year 2018 itself, this Court is of the considered view that the order granting bail to the accused persons need not be disturbed at this point of time. To really send back the parties before the Court below at this point of time will become an empty formality.

6. In view of the above discussion, this Court is not inclined to interfere with the order passed by the Court below granting bail to the accused persons. However, in the facts and circumstances of the case, there shall be a direction to the Court below to complete the proceedings in Spl.S.C.No.38 of 2018 within a period of three months from the date of receipt of a copy of this order.

These Criminal Original Petitions are disposed of accordingly.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS V)

//True Copy//

WEB COPY
Sub Assistant Registrar

To

1. The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.

2. The learned District and Principal
Sessions Judge, (Special Court of SC/ST Act Cases),
Ariyalur.

3.The Public Prosecutor,
High Court, Madras.

4.The Additional District & Sessions (Vacation Sessions Judge)
Ariyalur.

CrI.O.P.Nos.1678 of 2019 & 24430 of 2018

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