

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.13842 of 2018
and Crl.M.P.Nos.7301 of 2018 & 3453 of 2019

Christy Leftina Manocia

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Inspector of Police,
CCB Salem City,
Salem District.
(Crime No.26 of 2017)

2.M/s.Sambandam Spinning Mills Ltd.,
No.1, Kamaraj Nagar Colony,
Salem-14.
Rep. by its Managing Director
Mr.S.Devarajan.
(Amended as per order dated 31.10.2018
made in Crl.M.P.No.13873 of 2018)

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in Crl.M.P.No.1964 of 2018 dated 11.05.2018 passed by the Judicial Magistrate-V, Salem, in Crime No.26 of 2017 on the file of the respondent herein and set aside the same.

For Petitioner : Mr.R.Sankarasubbu

For R1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

For R2 : Mr.M.Devaraj

O R D E R

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.1964 of 2018 dated 11.05.2018, by the Judicial Magistrate-V, Salem, in Crime No.26 of 2017.

2.The petitioner is the wife of A1, who was working as an accountant in Sambantham Spinning Mill for a monthly salary of Rs.15,000/-. While so, the petitioner/A5 and 3rd accused Mercylin Philo conspired with A1/husband of the petitioner, had purchased house properties by misappropriating funds from Sambantham Spinning Mills Limited, through A1. A case has been registered in Crime No.26 of 2017 on the complaint given by the Manager, Sambantham Spinning Mills ltd., in which the petitioner was arrayed as A5. Initially, she was arrested and thereafter released on bail on 17.04.2018. Thereafter, the respondent police filed a petition under Section 437(5) Cr.P.C. Seeking to cancel the bail granted to the petitioner and permit them to take the petitioner to judicial custody. The learned Judicial Magistrate No.V, Salem, by an order dated 11.05.2018, has passed the following order in Cr.M.P.No.1964 of 2018 in Crime No.26 of 2017.

"31.In fine, this Court is inclined to allow this petition. Accordingly, the bail and bail bond executed by A5 Christy Leftina Manocia is hereby forfeited. The accused ordered to be committed to judicial custody as per law."

Challenging the above said order, the petitioner has filed the present petition with the aforesaid prayer.

3.Heard Mr.R.Sankarasubbu, learned counsel for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the first respondent and Mr.M.Devaraj, learned counsel for the second respondent and perused the materials on record.

4.The learned counsel for the 2nd respondent/defacto complainant submitted that no purpose will be served in keeping this petition pending since the investigation has also been started, pending this petition. He further submitted that the petitioner shall be directed to appear before the first respondent and co-operate with the investigation.

5.Considering the facts and circumstances of the case and also the submissions made by the learned counsels on either side, the order dated 11.05.2018 passed in Crl.M.P.No.1964 of 2018 by the learned Judicial Magistrate-V, Salem is set aside, on condition that the petitioner shall appear before the first respondent Police for interrogation for a period of two weeks from 25.03.2019 and thereafter, whenever, the first respondent Police calls for an enquiry on summons for interrogation.

6.It is made clear that, if the petitioner fails to comply with the above condition, this order stands automatically cancelled and the order passed by the learned Judicial

Magistrate No.V, Salem, is hereby restored without any further reference to this Court.

7.In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.V,
Salem.

2.-do- Thro' Chief Judicial Magistrate,
Salem.

3.The Inspector Of Police,
CCB Salem City,
Salem District.
(Crime No.26 of 2017)

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Devaraj, Advocate, S.R.No.24539

Crl.O.P.No.13842 of 2018
and Crl.M.P.Nos.7301 of 2018
& 3453 of 2019

PPA(CO)

rrs 20/03/2019

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