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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CrI.O.P.No.31372 of 2019

Jothi

...Petitioner

Vs

State Rep. by
Sub-Inspector of Police,
Koovathur Police Station,
Kancheepuram District.
(Crime No.221 of 2019)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to modify the condition imposed by the Principal District and Sessions Judge Chengalpattu, by its order dated 14.11.2019 made in CrI.M.P.No.6103 of 2019, as to execute a bond for a sum of Rs.50,000/- instead of the condition that the petitioner has to deposit a sum of Rs.50,000/- as cash deposit.

For Petitioner : Mr.G.Punniakoti

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

The prayer sought for in the present petition is to modify the condition imposed in the order dated 14.11.2019 made in CrI.M.P.No.6103 of 2019 on the file of the learned Principal Sessions Judge of Kancheepuram District at Chengalpattu.

2. The Central Government had issued a Government Order in G.S.R.715(E) dated 17.09.2015, by imposing a condition



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for contribution to be made to the District Mineral Foundation by every holder of a mining lease or a prospecting licensee. The Government of Tamil Nadu, in G.O.Ms.No.57, Industries (MMD.1) dated 19.05.2017, had passed "The Tamil Nadu District Mineral Foundation Rules, 2017" and the rule provides for formation of the "District Mineral Foundation Trust". The funds of the trust was directed to be utilised for the welfare of mine affected people as well as the mine affected area. The object of the fund is for the purpose of environment preservation and pollution control.

3. In the present case, when the petitioner herein had sought for return of property in connection with Crime No.221 of 2019, the learned Principal Sessions Judge, through an order dated 14.11.2019 passed in Crl.M.P.No.6103 of 2019, had ordered to return the vehicle on certain conditions. One among those conditions is that the petitioner should deposit a sum of Rs.50,000/- before the 'District Mineral Foundation Trust'. In view of the Government Orders cited above, such an observation for non-refundable deposit in the 'District Mineral Foundation Trust' cannot be found fault with. However, since the amount specified in the condition seems to be a little on the higher side, this Court is of the view that such an amount could be termed as an onerous condition.

4. This Court had an occasion to deal with the validity of such onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvasagam Vs. State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in Crl.O.P.No.20483 of 2017 dated 05.10.2017. By relying on various Judgements of the Hon'ble Supreme Court as well as this Court, it was held therein that the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous condition came to be modified in the said order.

5. I am of the view that the present condition imposed by the trial Court is a similar onerous condition and in view of the stand taken in the aforesaid order, the present petition seeking for modification also requires consideration.



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6. In the light of the above observations, the condition imposed in the order dated 14.11.2019 made in CrI.M.P.No.6103 of 2019 on the file of the learned Principal Sessions Judge of Kancheepuram District at Chengalpattu, is modified to the effect that the petitioner shall deposit a sum of Rs.25,000/- before the jurisdictional Tahsildar concerned and on such deposit, the said amount will be re-deposited by the jurisdictional Tahsildar to the credit of District Mineral Foundation Trust as a non-refundable deposit. All other observations made in the order dated 14.11.2019 in CrI.M.P.No.6103 of 2019, shall remain intact.

7. Accordingly, the Criminal Original Petition stands ordered.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk
To

1.The Principal District and Sessions Judge,
Chengalpattu.

2.The Sub-Inspector of Police,
Koovathur Police Station,
Kancheepuram District.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.G.Punniakoti , Advocate SR.No. 97505

CrI.O.P.No.31372 of 2019

A.SK(25/11/2019)