



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P. (MD) No.3178 of 2019

Subbulakshmi

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Sivagangai, Sivagangai District.

2.The Inspector of Police,
Kalaiyarkovil Police Station,
Kalaiyarkovil,
Sivagangai District.

3.Senthil @ Senthil kumar

...Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C, to cancel the bail granted to the 3rd respondent in Crl.M.P.No.901/2019 dated 15.02.2019 by the District and Session Judge (PCR) Court, Sivagangai.

For Petitioner : Mr.S.Anbazhagan

For R1 and R2 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

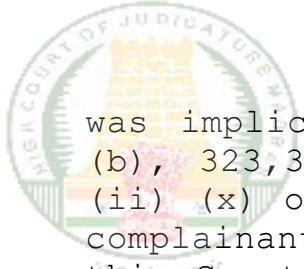
For R3 : Mr.S.Pugalendhi

ORDER

This petition has been filed to cancel the bail granted to the third respondent in Crl.M.P.No.901/2019 dated 15.02.2019 by the District and Session Judge (PCR) Court, Sivagangai.

2. This cancellation of bail application is filed by the defacto complainant on the ground that advance intimation was not informed properly.

3. The learned counsel appearing for the petitioner/ defacto complainant would submit that the defacto complainant/respondent



was implicated for the offences under Sections 147,148,341, 294 (b), 323,324,506(ii) of IPC and Section 4 of TNPHW Act and 3(1) (ii) (x) of SC/ST POA Act 1989, as against the respondent/defacto complainant approached this Court in CrI.O.P(MD) 1271 of 2019 and this Court by an order dated 29.01.2019 issued a direction to the respondent/defacto complainant to serve advance notice of surrender and bail two clear days before the intended date of surrender enclosing additional copies on the Special Public Prosecutor of the concerned Court and the Special Public Prosecutor shall intimate it to the defacto complainant through the respondent police. The learned trial court Special Additional Public Prosecutor issued noticed as required under Section 15-A SC/ST Act on 18.02.2019, however the matter was called and the Sessions Court passed an order on 15.02. 2019, it is a patent error committed by the trial Court prosecutor. Accordingly he prayed for cancellation for bail.

4. The learned counsel appearing for the third respondent, however as per the directions of this Court the third respondent submitted advanced copy , surrender petition and bail petition along with additional documents to the Special Public prosecutor, however the Special Public Prosecutor sent intimation with wrong date, i,e.,18.02.2019. However the case was called and the trial Court heard the matter on 15.02.2019 and granted bail to the third respondent in which the third respondent did not commit any mistake . However this Court may pass appropriate orders in the interest of justice.

5. The learned Government Advocate(CrI.Side) though advance copy and other documents was furnished to the Special public Prosecutor, the Special Public Prosecutor intimated the wrong date to the defacto complainant, in which the defacto complainant not able to appear before the Court and this Court may set aside the order and remand back the matter before the trial court and fix a date for hearing and thereafter they shall pass orders.

6. Considering the facts and circumstances of the case the Special Public Prosecutor intimated the defacto complainant on 18.02.2019, it appears that the order was passed on 15.02.2019. Hence I am inclined to cancel the bail order and accordingly the bail order is cancelled and the matter was remanded back to the Sessions Court and after affording opportunity to the petitioner as well as the defacto complainant the Court may pass appropriate order in accordance with law.

7. It is made clear that this Court is not expressing any opinion on the factual aspects and independently the Sessions Court may pass appropriate orders.



8. The Criminal Original Petition is allowed with the above directions.

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// True Copy //

Sd/-

Assistant Registrar ()

Sub Assistant Registrar (CS)

To:

- 1.The District and Session Judge (PCR) Court,
Sivagangai.
- 2.The Deputy Superintendent of Police,
Sivagangai, Sivagangai District.
- 3.The Inspector of Police,
Kalaiyarkovil Police Station,
Kalaiyarkovil,
Sivagangai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.S.Anbazhagan , Advocate SR.No.5171

AAV

Cr1.O.P. (MD) No.3178 of 2019

18.03.2019

KM/ (03.04.2019) 3P 6C