

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

Date : 04/09/2019

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) .No.5344 of 2019

S.Ramadass ... Petitioner/Defacto Complainant

Vs

1.R.Buvaneswari ... Respondent/Petitioner

2.State rep.by,
The Inspector of Police,
District Crime Branch,
Sivagangai District
(Cr.No.22/2018). ... Respondents/Respondent

For Petitioner : M/s.T.Villavan Kothai,
Advocate.

For R-1 : Mr.Jeyakarthick
Advocate.

For R-2 : Mr.A.Robinson,
Government Advocate (Crl.Side)

PETITION FOR CANCELLATION OF ANTICIPATORY BAIL Under Sec.439(2) of
Cr.P.C

PRAYER :-

To cancel the anticipatory bail granted to the first respondent
in Crl.M.P.No.609 of 2019 dated 11.03.2019 by the learned Sessions
Judge, Sivagangai and commit her to custody.

ORDER : The Court made the following order :-

The petitioner is the defacto complainant in Crime No.22 of
2018 on the file of the District Crime Branch, Sivagangai District.
The case was registered for the offences under Sections 406, 420,
120(B) and 506(2) of I.P.C. The first respondent herein is figuring
as accused No.3. The first accused is none other than her husband.

2. The specific case of the defacto complainant is that he was induced to part with a huge sums of money. It is not in dispute that a substantial amount was also deposited in the account of the first respondent herein. The main accused was arrested and he came out only on statutory bail. The first respondent herein had filed Crl.M.P.No.316 of 2019 before the learned Sessions Judge, Sivagangai District, seeking anticipatory bail. Taking note of the serious allegations made against the accused, the same was dismissed on 26.02.2019. While so, one more anticipatory bail petition was filed by the first respondent herein in Crl.M.P.609 of 2019. The same was allowed on 11.03.2019. Seeking cancellation of the same, this Criminal Original petition has been filed.

3. This Court heard the learned counsel on either side.

4. It is not in dispute that the first petition filed by the first respondent herein was dismissed by the learned Sessions Judge, Sivagangai. It is of course open to the accused to file a subsequent application for the same relief. But then, in the subsequent application, a fair disclosure with regard to the filing and dismissal of the earlier petition must be made. In this case, no such averment was set out. In fact in the affidavit filed by the first respondent herein in paragraph No.11, it has been mentioned that except Crl.M.P.No.609 of 2019, no other petition for anticipatory bail was filed by him. This is a false averment.

5. This Court will have to come down heavily on such attempts to secure relief by indulging in suppression of material facts. This Court will have to express its displeasure. I fail to understand as to how the District Crime Branch, Sivagangai, failed to instruct the Additional Public Prosecutor about the dismissal of the earlier petition.

6. I direct the Superintendent of Police, District Crime Branch, Sivagangai, to call for explanation from the investigation officer as to how it was not brought to the notice of the Additional Public Prosecutor about the dismissal of Crl.M.P. NO.316 of 2019. It is not as if the first respondent herein did not have any role in the matter. The amount of the defacto complainant was very much deposited. Therefore, on this ground, the order dated 11.03.2019 made in Crl.M.P.No.609 of 2019 on the file of the learned Sessions Judge, Sivagangai District, stands set aside.

7. The Criminal Original petition stands allowed.

sd/-
04/09/2019

/ TRUE COPY /

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

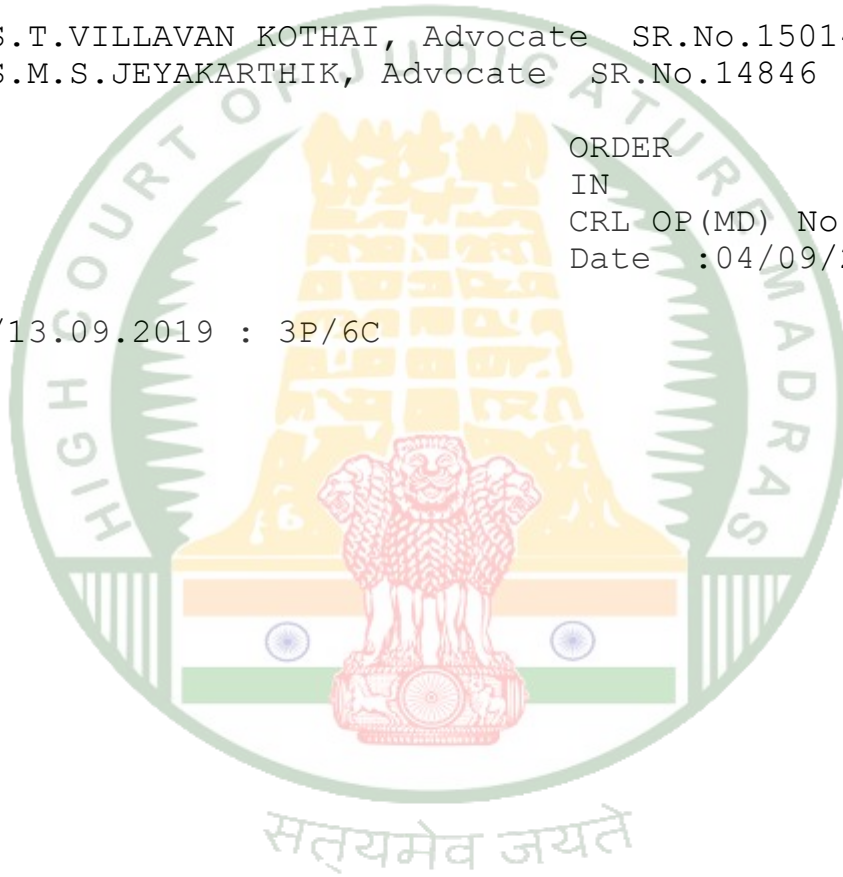
TO

- 1.THE SESSIONS JUDGE, SIVAGANGAI
- 2.THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
SIVAGANGAI DISTRICT
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

- +1. CC to M/S.T.VILLAVAN KOTHAI, Advocate SR.No.15014
+1. CC to M/S.M.S.JEYAKARTHIK, Advocate SR.No.14846

ORDER
IN
CRL OP(MD) No.5344 of 2019
Date :04/09/2019

PMU
PK/MMS/SAR-2/13.09.2019 : 3P/6C



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