



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/07/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.9547 of 2019

S.Sakthivel

... Petitioner/Accused No.3

Vs

State Rep.by

The Inspector of Police,

Virudhunagar West Police Station,

Virudhunagar District.

in Crime No. 345 of 2018

... Respondent/Complainant

Ganesan

... Intervening petitioner/
Defacto Complainant

For Petitioner : M/s.M.Michael Bharathi,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

For Intervener : Mr.M.Sankar, Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

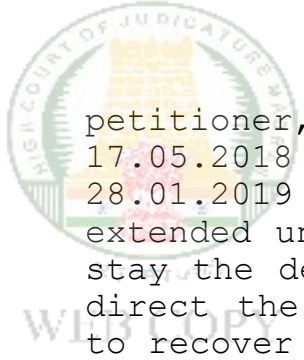
For Bail in Crime No. 345 of 2018 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

The petition has been filed by the Accused No.3 seeking bail for the alleged offence punishable under Sections 294 (b), 406, 420 and 506 (ii) r/w 34 of IPC, in Crime No.345 of 2018.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that the petitioner has already filed Crl.OP(MD)No.6881 of 2018 to quash the FIR and also filed Crl.MP(MD)No.3269 of 2018 seeking interim stay of the investigation pending the aforesaid Criminal Original Petition. He further submitted that this Court, considering the arguments submitted by the learned counsel for the

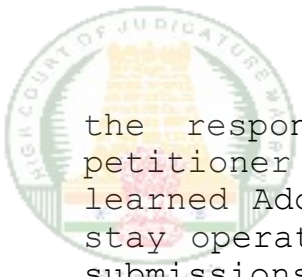


petitioner, has granted interim stay of the investigation on 17.05.2018 and subsequently, this Court has passed an order on 28.01.2019 that the interim stay already granted by this Court is extended until further orders. But, by suppressing the said interim stay the defacto complainant has filed CrI.OP(MD)No.2898 of 2019 to direct the Inspector of Police, West Police Station, Virudhunagar, to recover the cheated amount from the petitioner herein. He further submitted that when the said petition came up for hearing, the learned Additional Public Prosecutor has submitted before the Court that there is no stay operating on Investigating Agency and based on the said submission, this Court has passed an order directing the Investigating Agency to expedite the investigation process and file a final report within a period of four months. He further submitted that in pursuance of the said order, the respondent has arrested the petitioner herein on 13.06.2019 and remanded to judicial custody. He further submitted that since already stay has been granted by this Court in CrI.OP(MD)No.6881 of 2018, in violation of the said order, the defacto complainant got the order on 26.02.2019 directing the Investigating Agency to expedite the investigation process and file a final report. He further submitted that the act of the defacto complainant and also the respondent would amount to contempt of the Court and therefore, he prayed to grant bail to the petitioner.

4.The learned counsel for the Intervenor has submitted that the Intervenor has filed CrI.OP(MD)No.2898 of 2019 only for a limited relief that is to recover the cheated amount from the petitioner herein and he has not asked for any direction to the Investigating Agency to expedite the investigation process. He further submitted that based on the submission made by the learned Additional Public Prosecutor, this Court has directed the Investigating Agency to expedite the investigation process and file a final report within a period of four months. He further submitted that the amount involved in this case is more than Rs.1.50 crores and hence, he strongly opposed this petition.

5.The learned Additional Public Prosecutor appearing for the respondent has submitted that when CrI.OP(MD)No.2898 of 2019, was came up for hearing, only as per the instructions of the respondent police, he has submitted before this Court as there is no stay operating on the Investigating Agency. He further submitted that even though the petitioner was arrested and interrogated, nothing has been recovered from the petitioner. He further submitted that since investigation is not yet completed, he opposed this petition.

6.A perusal of the typedset of papers filed by the petitioner, shows that the petitioner has filed CrI.OP(MD)No.6881 of 2018 to quash the FIR and also filed CrI.MP(MD)No.3269 of 2018 to stay the investigation. This Court by the order dated 17.05.2018 has granted interim stay of the investigation. Subsequently, this Court by the order dated 28.11.2019 the interim order already granted by this Court has been extended until further orders. Thereafter, the defacto complainant has filed CrI.OP(MD)No.2898 of 2019 to direct



the respondent herein to recover the cheated amount from the petitioner herein. When the said petition came up for hearing, the learned Additional Public Prosecutor has submitted that there is no stay operating on the Investigating Agency and considering the said submissions, this Court has directed the Investigating Agency to expedite the investigation process and file a final report within a period of four months.

7. Since, stay has already been granted by this Court in CrI.OP (MD) No. 6881 of 2018 with regard to the investigation, the respondent police ought to have brought to the knowledge of this Court, with regard to the said stay. But on the contrary, the respondent has represented before this Court that there is no stay operating on the Investigating Agency. Since, already stay was granted by this Court, it is not open to the respondent to make such representation before the Court. Therefore, this Court is inclined to grant bail to the petitioner by imposing certain conditions.

[a] the petitioner is ordered to be released on bail on their executing a bond for a sum of Rs. 10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, No. I, Virudhunagar.

[b] the petitioner shall report before the respondent police daily at 10.00 a.m for a period of one month and thereafter, as and when required for the interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

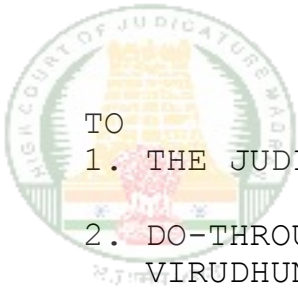
[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) AIR SCW 5560]

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
08/07/2019

/ TRUE COPY /

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



TO

1. THE JUDICIAL MAGISTRATE NO.I, VIRUDHUNAGAR.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.

3. THE OFFICER INCHARGE, DISTRICT JAIL,
VIRUDHUNAGAR.

4. THE INSPECTOR OF POLICE,
VIRUDHUNAGAR WEST POLICE STATION,
VIRUDHUNAGAR DISTRICT.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.SASI KUMAR, Advocate SR.No.11239

ORDER

IN

CRL OP(MD) No.9547 of 2019

Date :08/07/2019

MS/PN/SAR-4/08.07.2019/4P.7C