



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/08/2019

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PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11086 of 2019

Jeevanantham,
S/o.Periyasamy, D.No.9/67, Mela
Kulathurpatti, Pavithram,
Karur District.

... Petitioner/Accused No.2

Vs

The Inspector of Police,
District Crime Branch,
Dindigul District
(Cr.No.17/2019).

... Respondent/Complainant

For Petitioner : M/s.J.Lawrance,
Advocate.

For Intervenor : Mr.R.J. Karthick
Advocate

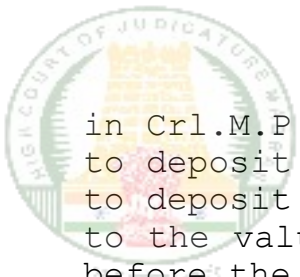
For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

PETITION FOR MODIFICATION Under Sec.439(1)(b) of Cr.P.C

PRAYER :-

To modify the order dated 23.07.2019 made in Crl.MP.No.1761/2019 on the file of the Prl Ses Judge, Dindigul in so far as the condition directing the petitioner to pay a sum of Rs.10,00,000/ or deposit the Title Deed stands in the name of the petitioner herein to the value of Rs.10,00,000/- before the learned Judicial Magistrate no.II, Dindigul to the credit of Crime No. 17 of 2019 on the file of the respondent police within a period of four weeks from the date of receipt of a copy of the said order.

ORDER : The Court Made the following order :-



in CrI.M.P No.1761 of 2019 dated 23.07.2019 directing the petitioner to deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) by cash or to deposit the title deed which stands in the name of the petitioner to the value of Rs.10,00,000/- to the credit of Crime No.17 of 2019 before the learned Judicial Magistrate No.II, Dindigul..

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2. The learned counsel for the petitioner would submit that the petitioner is in no way connected with the aforesaid crime. He further submitted that the petitioner has not received any amount from the defacto complainant. He further submitted that even as per the First Information Report, the defacto complainant has transferred the amount to the accounts of various persons and that being so, it is not proper on the part of the Sessions court to direct the petitioner to deposit the entire amount. He further submitted that the condition imposed by the Sessions Court is onerous and therefore he prays to modify the condition that the petitioner shall deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) by cash or deposit the title deed stands in the name of the petitioner to the value of Rs.10,00,000/- to the credit of Crime No.17 of 2019 before the learned Judicial Magistrate No.II, Dindigul. In support of his contention, he relied upon the following decisions:

a. The order of the Hon'ble Supreme Court in SLP Nos.5195-5196/2019 (M.D.Dhanapal-vs-State rep. by the Inspector of Police).

b.2015(2)MWN(Cr.)438 in the case of Sakthivel-Vs- State rep. by the Inspector of Police, Belukurichi Police Station, Namakkal District

c. The Judgment of the Hon'ble Supreme Court reported in 2013 SAR(Criminal)1177 in the case of the Sumit Mehta -Vs- State of N.C.T. of Delhi.

d.The Order of this Court in CrI.O.P No.28403 of 2018, dated 05.12.2018

e. The Order of this Court in CrI.O.P No.29165 of 2018, dated 13.12.2018

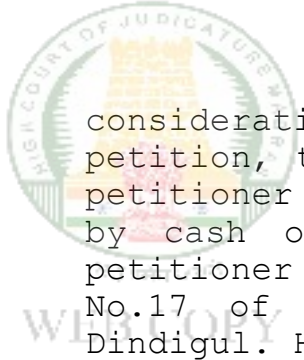
f.The Order of this Court in CrI.O.P No.29753 of 2018, dated 19.12.2018

g.The Order of this Court in CrI.O.P No.16768 of 2018, dated 28.06.2019

h.The Order of this Court in CrI.O.P No.18948 of 2018, dated 17.07.2019

i)The Order of this Court in CrI.O.P No.18830 of 2018, dated 17.07.2019

3. Per contra, the learned counsel for the intervenor/ defacto complainant would submit that the petitioner and other accused persons gave promise that they will make arrangement for getting job in railway and induced the defacto complainant to pay a sum of Rs.20,00,000/- and believing their words the defacto complainant has paid Rs.17,30,000/- to the account of accused persons. He further submitted that the defacto complainant has transferred to the account of the petitioner herein alone a sum of Rs.9,73,000/- and Rs.50,000/- to the account of one Monica as per the instructions of the petitioner. He also produced the bank details. Taking into



consideration of the aforesaid facts, while granting bail to the petitioner, the Sessions Court has imposed a condition directing the petitioner to deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) by cash or deposit the title deed stands in the name of the petitioner to the value of Rs.10,00,000/- to the credit of Crime No.17 of 2019 before the learned Judicial Magistrate No.II, Dindigul. Hence he opposed this petition.

4. The learned Additional Public Prosecutor adopted the arguments advanced by the learned counsel for the intervenor/defacto complainant and he also opposed this petition.

5. The bank details submitted by the learned counsel for the intervenor/defacto complainant would show that on various dates the defacto complainant has transferred a total sum of Rs.9,73,000/- to the account of the petitioner herein(A2), but the learned counsel for the petitioner has denied the said transactions. Further, his contention is that the Sessions Court should not have imposed the condition that the petitioner alone should deposit a sum of Rs.10,00,000/- while disposing of the bail application which was filed by the petitioner.

6. Taking into consideration of the aforesaid facts, this Court is of the view that the Sessions Court ought to have considered the contention of both the parties and if the Sessions Court comes to the conclusion that the accused has made out a case for getting bail, it has to grant bail or otherwise it should have dismissed the petition. Instead of adopting the aforesaid procedure, the Sessions Court should not have granted bail by imposing the condition as aforesaid.

7. Sometimes the accused themselves voluntarily may come forward expressing their willingness to deposit some amount and in such cases, the Court may accept the said offer and grant either bail or anticipatory bail as the case may be depending upon the facts and circumstances of the case. But in this case it appears that no such offer has been made by the petitioner.

8. For the aforesaid reasons, the order passed by the learned Principal Sessions Judge, Dindigul in CrI.M.P No.1761 of 2019 dated 23.07.2019 is set aside and the matter is remitted back to the Sessions Court. The Sessions Court is directed to dispose of the CrI.M.P No.1761 of 2019 after giving opportunities to both sides and pass appropriate orders in accordance with law.

9. With the aforesaid direction, the Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(Writs)

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Sub Assistant Registrar



TO

1. Principal Sessions Judge, Dindigul
2. Do-Through The Chief Judicial Magistrate,
Dindigul District.
3. The Judicial Magistrate No.II,
Dindigul.
4. The Inspector of Police,
District Crime Branch,
Dindigul District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-79897[F] dated 06/08/2019)
+1 CC to M/s.J.LAWRANCE, Advocate (SR-12956[I] dated 06/08/2019)

ORDER
IN
CRL OP(MD) No.11086 of 2019
Date : 06/08/2019

AAV
JM/06.08.2019/4P-8C