

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P. NO. 15133 OF 2020

T.Kumar

.. Petitioner

- Vs -

1. Mrs.Poongothai

2. M.Kumar

3. State, rep. By
The Inspector of Police
Central Crime Branch
Team-VII, Egmore
Chennai.

.. Respondents

Criminal Original Petition filed u/s 439 (2) of the Criminal Procedure Code

praying this Court to cancel the bail granted to the petitioners in Crl. O.P.

No.23371 of 2018 dated 10.10.2018.

For Petitioner : Mr. R.C.Paul Kanagaraj, for
Mr. M.Suresh

ORDER

This Court, vide order dated 10.10.2018 in Crl. O.P. No.23371 of 2018, had

granted bail to the petitioner on certain conditions. The present petition has been moved by the defacto complainant for cancellation of bail, on the ground that the conditions imposed by this Court have not been complied with.

2. Learned counsel appearing for the petitioner/defacto complainant submits that though the accused/respondents 1 and 2 herein had given an undertaking that they will deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) and that the balance portion of the amount would be paid by them to the defacto complainant before March, 2019, however, the said undertaking has not been complied with by the respondents 1 and 2 herein and, therefore, for non-compliance of the undertaking the bail granted to the respondents 1 and 2 should be cancelled as otherwise, the petitioner herein would not be in a position to realise his amount from the respondents 1 and 2.

3. This Court heard the learned counsel for the petitioner and also perused the materials available on record.

4. The order passed by this Court on 10.10.2018 in Crl. O.P. No.23371/18

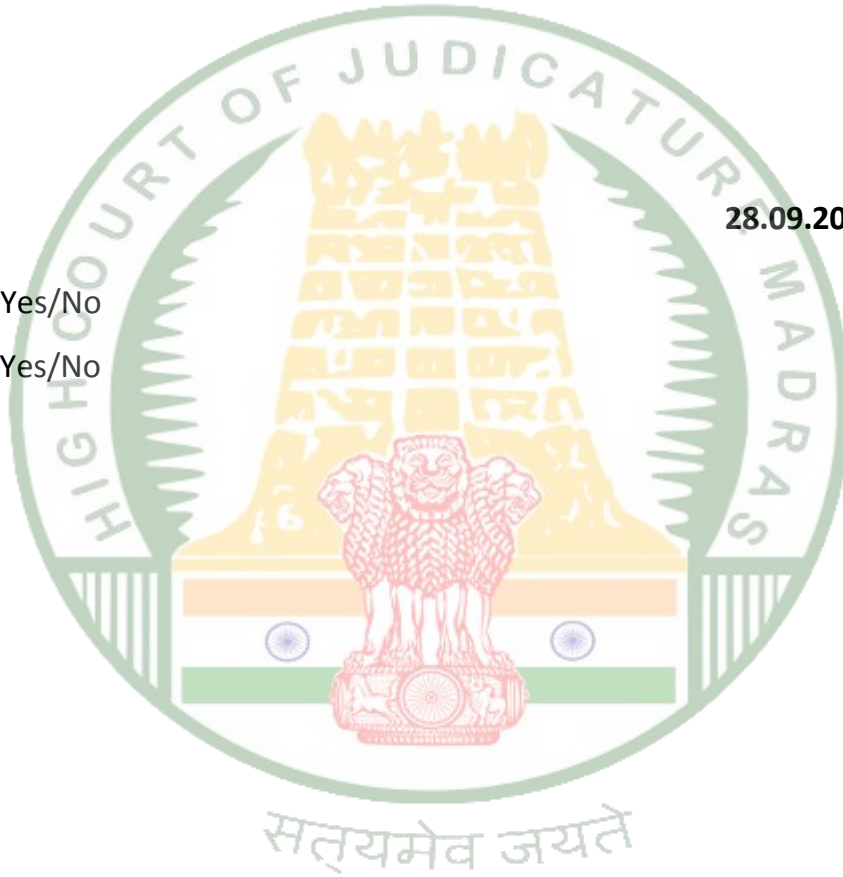
reveals that while imposing conditions for grant of interim bail, this Court had directed the respondents 1 and 2 herein to deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) with the court below as one of the conditions for enlarging the petitioners on bail. In compliance of the above condition, the respondents 1 and 2 herein have deposited the amount as ordered by this Court. It is to be pointed out that apart from the said amount, this Court had not directed the respondents 1 and 2 to deposit any other amount. Though as contended by the learned counsel for the petitioner herein that the undertaking filed by the respondents 1 and 2 herein while seeking grant of bail reveals that the respondents 1 and 2 herein had stated that the balance amount would be settled within a particular time frame, however, the said portion of the undertaking was not a part of the order. Therefore, mere submission by the respondents 1 and 2 herein in the form of undertaking without the same being taken on record by this Court and incorporating the same as a condition for grant of bail, would not be a ground to cancel the bail granted to respondents 1 and 2 herein. There should be a deliberate non-compliance of the conditions stipulated by this Court for cancellation of bail and in the above circumstances, there being no deliberate non-compliance with the order passed by this Court, the prayer of the petitioner

herein for cancellation of bail does not merit acceptance.

5. For the reasons aforesaid, this application for cancellation of bail is liable to be dismissed and, accordingly, the same is dismissed.

Index : Yes/No
Internet : Yes/No
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M.DHANDAPANI, J.

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