

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.02.2020

Pronounced on : 24.02.2020

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Crl.O.P.No.25284 of 2019

N.Vijayaraghavan ..Petitioner/Defacto complainant
Vs.

1. V.Azhagarsamy

2. Susila @ Sundari Azhagarsamy

3. S.Kannaiah

4.K.Vijayalakshmi

5.S.Samuthra

..Respondents/Accused 1 to 5

6.State, rep. By

The Inspector of Police

N-1. Royapuram Police Station

Chennai - 600 013.

..Respondent/Respondent

Prayer :- Criminal Original Petition filed under Section 439(2) of Criminal Procedure Code, praying to cancel the anticipatory bail granted by this Court to the respondents / accused 1 to 5 in Crl.OP.No.13073 of 2018, dated 09.05.2018, and direct the sixth respondent to secure the respondents / accused 1 to 5 and send them to judicial custody in the interest of justice and grant costs.

For Petitioner : Mr.N.Vijayaraghavan/Party-in-Person

For Respondents : Mr.J.Jayakumaran [R1 to R5]

Mrs.S.Thankira

Government Advocate (Criminal Side) for R6

ORDER

The present petition is filed by the defacto complainant seeking cancellation of anticipatory bail granted to the petitioners in Crl.OP.No. 13073 of 2018.

2. In Crl.OP.No.13073/2018, the accused persons face accusation for the offences under Sections 147, 294(b), 323 and 506 (ii) of IPC in Crime No.1840/2017, on the file of the respondent-police. In its order, this Court recorded the statement of the learned Additional Public Prosecutor that the injured was discharged from hospital, and that there are no previous cases pending against those petitioners.

3. The defacto complainant/ petitioner now contends that as on that date, there is a case in C.C.No.2810/2014 pending before the XVI Metropolitan Magistrate Court, George Town, Chennai against the accused 1 and 2 (respondents 1 and 2 herein) for offences under Section 427, 323, 325, 355, 506 (i) r/w.34 of IPC., and they have grossly suppressed this fact. In other words, this Court was duped during the hearing in Crl.OP.No. 13073 of 2018.

4. The learned Government Advocate (Criminal Side) submitted that the case has been charge sheeted.

5. The learned counsel for the respondents 1 to 5 (the petitioners in Crl.OP. 13073 of 2018) has filed the written objection, in which, he has stated that there are 2 cases in C.C.No.2810/2014 and C.C.No.1586 of 2019 are pending, and in both of which, the respondents 3 to 5 are not involved. It is further alleged the real suppression of facts has not been made by these respondents, but only by the petitioner/defacto complainant. He added that the first respondent herein had filed RCOP.No.237/2014 before the X Small Causes Court, Chennai, for eviction and it was allowed on 16.11.2018. An appeal was preferred by the present petitioner in RCA.No.877/2018 before IX Small Causes Court, Chennai and it is pending. Thereafter, the petitioner just to protect his tenancy, has been untiringly preferring police complaints one after another, when in fact, the petitioner believed in rule of law and moved the Court for eviction through judicial process. At any rate, the statement was not made by the petitioner, but only by the learned Government Advocate (Criminal Side).

6. The last mentioned statement in the above paragraph impresses the Court most. Going by the order of this Court in Crl.OP.No.13073/2018, the statement that there was no previous case pending against the present respondents 1 to 5, is attributable to the learned Additional Public Prosecutor and not by the petitioner/defacto complainant. Secondly, today the case is charge sheeted, and what is the need for cancellation of anticipatory bail, once investigation of the case is complete. In this circumstances, this Court does not find any merit in this petition and accordingly, it is dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.XVI,
George Town, Chennai.

2.-Do-Thro' The Chief Metropolitan Magistrate,
Egmore, Chennai.

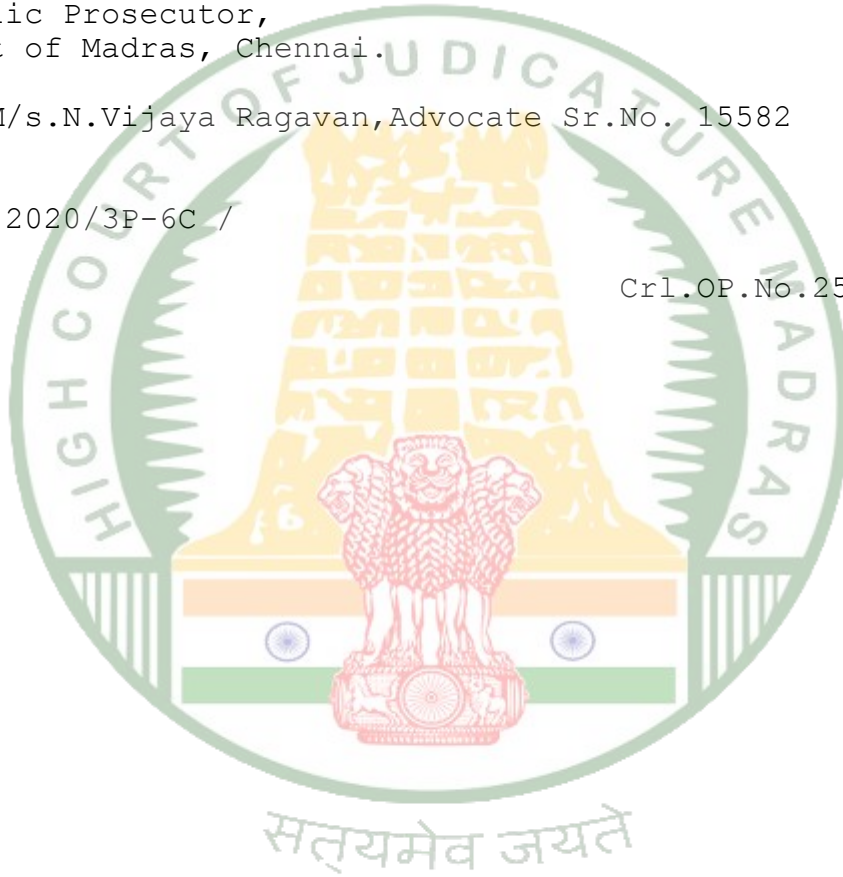
3.The Inspector of Police,
N1 Royapuram Police Station,
Chennai -13.

4.The Public Prosecutor,
High Court of Madras, Chennai.

+1 cc to M/s.N.Vijaya Ragavan,Advocate Sr.No. 15582

AKM/16.03.2020/3P-6C /

order in
Crl.OP.No.25284 of 2019



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