



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Cr1.O.P No.25812 of 2019

D.Kannan

... Petitioner

Vs.

1. State, represented by the Inspector of Police,
Sankari Police Station,
Sankari, Salem District.

2. Santhi

3. Alagesan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 23.07.2019 passed in C.M.P.No.1281 of 2019 by the Judicial Magistrate-1, Sankari.

For Petitioner : Mr.V.Vijayakumar

For 1st Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

For 2nd & 3rd
Respondents : No appearance

O R D E R

The present Criminal Original Petition has been filed seeking a relief to set aside the order passed in C.M.P.No.1281 of 2019 by the Judicial Magistrate-1, Sankari, dated 23.07.2019.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent police.

3. The case of the petitioner is that before the 1st respondent police, he preferred a complaint against the 2nd and 3rd respondents, alleging that they committed various offences, which are punishable under the Indian Penal Code. On receipt of



the same, the 1st respondent police registered a case in Crime No.225 of 2018 under Sections 191, 198, 199, 208, 420, 294 (b), 506 (1) of I.P.C., and after registering the said F.I.R., the 1st respondent police secured the 3rd respondent/ accused and sent him to the judicial custody. Subsequently, the 3rd respondent herein filed an application before the learned Judicial Magistrate-I, Sankari, in C.M.P.No.2475 of 2018 under Section 167 (2) of Cr.P.C. with a prayer to enlarge him on bail. By an order dated 16.08.2018, the Judicial Magistrate-I, Sankari, allowed the said application with a condition directing the 3rd respondent to deposit a sum of Rs.5,00,000/- as security. The 3rd respondent herein also complied with the said condition and after depositing the said Rs.5,00,000/-, as a security, he came away from the judicial custody. As of now, the said amount of Rs.5,00,000/- is in the Criminal Court deposit, which was maintained by the Judicial Magistrate-I, Sankari.

4. In the mean time, the petitioner being the defacto complainant, moved an application before the Judicial Magistrate-I, Sankari, praying to return the said amount to him. By an order dated 23.07.2019, the Judicial Magistrate-I, Sankari, dismissed the same by observing that if the said amount is returned to the petitioner, there may be a chance for multiplicity of proceedings. Aggrieved over the same, the petitioner is before this Court with the present Criminal Original Petition praying to set aside the order dated 23.07.2019 passed in C.M.P.No.1281 of 2018 by the Judicial Magistrate-I, Sankari and to direct the Judicial Magistrate No.1, Sankari, to return the said deposited amount.

5. Admittedly, the petitioner is the defacto complainant in Crime No.225 of 2018. Further, the amount of Rs.5,00,000/- has been deposited by the 3rd respondent only in compliance of the condition, which has been directed during the time of enlarging him on bail.

6. In this regard, the learned Additional Public Prosecutor appearing for the first respondent police made a submission that in respect of Crime No.225 of 2018, the investigation is still pending with the first respondent police.

7. Now on considering the rival submissions, it is true that in some of the cases, at the end of investigation, the Investigation Officer may come to the conclusion that the complaint is having some false information and thereby, he may close the F.I.R. as mistake of fact. Further, F.I.R. has been closed for various reasons. More than that after concluding the trial, the accused may get an order of acquittal and in the said circumstances, it is an obligation for the Court to return the deposited amount to the person who has deposited the same for complying the condition imposed at the time of enlarging the



bail. Under such circumstances, if the said amount was now returned to the defacto complainant, it is very difficult to recover the same from the defacto complainant, in fact, the same may create a multiplicity of proceedings. Only after concluding the trial, the competent forum has to decide whether the petitioner is entitled to receive the said amount or not. In otherwise, the amount, which was deposited by the 3rd respondent is being the conditional one, this Court cannot direct the learned Judicial Magistrate-I, Sankari, to return the said amount to the petitioner.

8. However, it would be appropriate to direct the first respondent police to complete the investigation within a stipulated time. Accordingly, the first respondent police is directed to complete the investigation and file a final report within a period of one month from the date of receipt of a copy of this order.

The Criminal Original Petition is ordered accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

asi

To

1.The Judicial Magistrate-I, Sankar.

2. The Inspector of Police,
Sankari Police Station,
Sankari, Salem District.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Vijauakumar, Advocate, sr no.35935

Cr1.O.P No.25812 of 2019

PM(CO)
RMP(14/12/2020)