

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :13.10.2020

Coram

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.30040 of 2019

and

Crl. MP No.16410 of 2019

Sathiesh Kumar

... Petitioner

-vs-

The Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.
Crime No.428 of 2019

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to set aside the order passed by the learned Principal District and Sessions Judge, Krishnagiri, Krishnagiri District in Crl. M.P. No.2244 of 2019, dated 30.10.2019.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed seeking the relief to set aside the order dated 30.10.2019 passed by the learned Principal District and Sessions Judge, Krishnagiri.

2. The petitioner herein was arrayed as 3rd accused in Crime No.428 of 2019 on the file of the respondent police. In the above referred case, vide order dated 14.10.2019 in Crl. MP No.2021 of 2019, the learned Principal District and Sessions Judge, Krishnagiri has enlarged the petitioner on bail. Subsequently, vide order dated 30.10.2019 in Crl. MP No.2244 of 2019, the bail already granted to the petitioner was cancelled and accordingly, NBW was issued against the petitioner. In such circumstances, the petitioner is before this Court with a prayer to set aside the bail cancellation order passed by the learned Principal District and Sessions Judge, Krishnagiri in Crl. MP No.2244 of 2019.

3. On a perusal of the impugned order, it reveals that the petitioner has filed two petitions simultaneously seeking relief for enlargement of bail. Out of which one is filed before the Principal District and Sessions Judge, Krishnagiri and the second one is filed before this Court.

4. This Court, by order dated 04.11.2019 in Crl. O.P. No.27630 of 2019 has dismissed the said bail petition with observations as without getting proper instructions from the petitioner, the aforesaid petition is filed before this Court. Further by mentioning the aforesaid reasons and on the fact that the learned Sessions Judge has enlarged the petitioner on bail, this Court vide order dated 14.10.2019 dismissed the said Crl. OP No.27630 of 2019. Therefore, filing of the bail application before this Court is a bonafide mistake. On the other hand, the petitioner has not suppressed the fact of filing the petition before this Court, while filing the petition before the learned Principal District and Sessions Judge, Krishnagiri seeking to enlarge him on bail.

5. However, the learned Principal District and Sessions Judge, Krishnagiri without taking into consideration of those facts vide order dated 30.10.2019 in Crl. MP No.2244 of 2019 cancelled the bail, which has already granted in favour of the petitioner, more than that the said cancellation order had been passed without giving any opportunity to the petitioner. It is a settled proposition that before cancelling the bail order, it is mandatory for the Presiding Officer of the Court to hear the petitioner and in general not providing an opportunity to the petitioner is nothing but a violation of natural justice. Therefore for the aforesaid reasons, the impugned order dated 30.10.2019 in Crl. MP. No.2244 of 2019 is liable to be set aside. Accordingly, the order dated 30.10.2019 in Crl. MP No.2244 of 2019 passed by the learned Principal District and Sessions Judge, Krishnagiri is hereby set aside and the order passed in Crl. MP No.2021 of 2019 was restored to file, in which the petitioner was enlarged on bail.

6. In the light of the aforesaid observations, this Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Principal District and Sessions Judge,
Krishnagiri.

2.The Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.

3. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.E.Kannadasan, Advocate, sr no.34071

Crl.O.P.No.30040 of 2019

GMR (CO)

RMP (02/12/2020)



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