



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P.No.34821 of 2019

Kamalanathan

... Petitioner/Petitioner

Vs.

The State

Rep, by Sub-Inspector of Police,  
K-2, Ayanavaram Police Station,  
Chennai.

(Crime No.681/2019)

... Respondent/Complainant

PRAYER: Criminal Original petitions have been filed under Section 482 of the Criminal Procedure Code to modify the condition pertaining to paragraph.6, clause (a) imposed upon the petitioner by the learned Principal Sessions Court, Chennai made in Crl.M.P.No.27501 of 2019 dated 19.12.2019.

For Petitioner : Mr.Sankarasubbu  
for Mr.R.Senthilkumar

For Respondent : Mrs.S.Thankira  
Government Advocate (Crl. Side)  
Mr.K.S.Kaviarasu  
for Intervenor

O R D E R

This Criminal Original petition has been filed seeking modification of the bail condition imposed on 19.12.2019 in Crl.M.P.No.27501 of 2019 by the learned Principal Sessions Court, Chennai.

2.The petitioner has been directed by the Sessions Court while granting bail in Crl.M.P.No.25501 of 2019 to pay a sum of Rs.8,00,000/- directly to the defacto complainant or to deposit the same in Crime No.681 of 2019.

3.The allegation in the FIR is to the effect that the petitioner is a money lender, that he charged exorbitant interest on a loan amount of Rs.3,00,000/- which he had advanced to the defacto complainant sometime in 2010, and eversince the



petitioner has been receiving Rs.30,000/- a month towards repayment of the loan amount, and finally, he has also misused the cheque issued by the defacto complainant and withdrew Rs.8,00,000/-. The petitioner has been arrayed as A1 and his wife has been arrayed as A2. As indicated above, in the order granting bail to the petitioner, the Sessions Court has directed him to deposit, or pay, a sum of Rs.8,00,000/- as has been mentioned.

4.The learned counsel for the petitioner submits that the petitioner's wife, who is arrayed as A2, has moved this Court seeking anticipatory bail in CrI.O.P.No.33676 of 2019, wherein this Court has directed her to handover a sum of Rs.3,50,000/- to the defacto complainant. The grievance of the petitioner is that this amount paid by his wife/A1 to defacto complainant pursuant to the direction of this Court in CrI.O.P.No.33676 of 2019, has not been taken note of by the learned Sessions Judge. The petitioner now requires this Court to give credit to the amount paid by A2.

5.The learned counsel for the intervenor submitted that it is impermissible.

6.If the FIR is analysed, the facts therein can be divided into two parts. The first part deals with borrowing the sum and payment of Rs.30,000 every month for the past 9 years, and the later part involves withdrawal of a sum of Rs.8,00,000/- by the petitioner. Now, both the orders passed by this Court as well as the learned Sessions Court deals only with the later part and the conditions are imposed to suit the later part. Necessarily, the defacto complainant, assuming his case is true, cannot be benefited more than what is due to him. Necessarily, the amount paid by A2 to the defacto complainant must have to be adjusted in the amount directed to be paid by the Sessions Court. Accordingly, the condition in paragraph no.6(a) of the order of the Sessions Court in CrI.M.P.No.27501 of 2019 is modified and the petitioner is now directed to deposit a sum of Rs.4,50,000/-(Rupees Four Lakhs and Fifty Thousand Only), or offer such title deeds of the value of Rs.4,50,000/-(Rupees Four Lakhs and Fifty Thousand Only) before the V Metropolitan Magistrate, Chennai.

7.The Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



To

- 1.The Sub-Inspector of Police,  
K-2, Ayanavaram Police Station,  
Chennai.
- 2.The Principal Sessions Court,  
Chennai.
- 3.The V Metropolitan Magistrate,  
Chennai.
- 4.do Thro The Chief Metropolitan Magistrate,  
Egmore, Chennai.
- 5.The Superintendent,  
Central Prison-II,  
Puzhal, Chennai.
- 6.The Public Prosecutor,  
Madras High Court.

+1cc to Mr.M.R.Senthilkumar, Advocate sr.128  
+1cc to Mr.K.S.Kaviarasu, Advocate sr.554

Cr1.O.P.No.34821 of 2019

nr 03/01/2020