



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Appellate Jurisdiction)

Tuesday, the First day of September Two Thousand and Twenty
PRESENT

The Hon`ble Mrs.Justice R.THARANI

WEB COPY

CRL MP(MD). No.1392, 2426 & 2427 of 2020
in CRL.A(MD) No.574 of 2019

CRL MP(MD). No.1392 of 2020 in Crl A(MD) No.574 of 2019:

The Deputy Superintendent Of Police
Thiruchuli Sub-Division
Virudhunagar District
(Crime No.78/2019)

... Petitioner/Respondent No.1
Vs

1. R.Yogalakshmanan
- 2 V.Prabhu ... Respondents 1 & 2 / Appellants
- 3 Thangapandiyan ... Respondent No.3/Defacto Complainant/
Respondent No.2

Prayer in CRL MP(MD). No.1392 of 2020:-

This Criminal Miscellaneous Petition filed under section 439(2) of Cr.P.C. Praying this Court, to cancel the bail granted in favour of the Appellants /A2 and A3 in Crl.A.(MD) NO.574 of 2019 dated 07/01/2020 by this Honourable Court.

CRL MP(MD). Nos. 2426 & 2427 of 2020 in Crl A(MD) No.574 of 2019

1. R.Yogalakshmanan
- 2 V.Prabhu .. Petitioners/Appellants (in both cases)

vs

1. The Deputy Superintendent Of Police
Thiruchuli Sub-Division
Virudhunagar District
(Crime No.78/2019) ... 1st Respondent/Respondent No.1
(in both cases)
2. Thangapandiyan ... 2nd Respondent/Defacto Complainant/
Respondent No.2 (in both cases)



Prayer in CRL MP(MD).No.2426 of 2020:-

This Criminal Miscellaneous Petition filed under section 482 of Cr.P.C., Praying this Court to condone the absence of 48 days of 1st petitioner in complying with the condition imposed by this Hon'ble Court in CRL.A(MD) No.574 of 2019 on the file of Hon'ble High Court.

Prayer in CRL MP(MD).No.2427 of 2020:-

This Criminal Miscellaneous Petition filed under section 482 of Cr.P.C., Praying this Court to amend the name of the 2nd respondent as Elangovan @ Prabhu instead of Prabhu in Crl.A(MD) No.574 of 2019 on the file of Hon'ble High Court.

Prayer in CRL A(MD). 574 of 2019 :

Criminal Appeal filed under Section 14-A(2) of SC/ST (POA) Act - against the order dated 20.11.2019 made in Crl.MP.No.1577 of 2019 by the Special Court for Exclusive trial of SC/ST cases Virudhunagar District at Srivilliputhur.

ORDER:- These Criminal Miscellaneous Petitions coming on for orders on this day and upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mrs.Anandha Devi, Government Advocate (Criminal Side) on behalf of the Petitioner (in CRL MP(MD). No.1392 of 2020 in CRL A(MD). 574/ 2019) and for first respondent in (CRL MP(MD).Nos.2426 and 2427 of 2020 in CRL A(MD). 574/ 2019) and of Mr.S.Ramasundarvijayraj for M/s Veera Associates For RR1 and 2 (in CRL MP(MD). No.1392 of 2020 in CRL A(MD). 574/ 2019) and for the Petitioners in (CRL MP(MD).Nos.2426 and 2427 of 2020 in CRL A(MD). 574/ 2019) and Mr.B.Anandan, Advocate for the 3rd Respondent (in CRL MP(MD). No.1392 of 2020 in CRL A(MD). 574/ 2019) and 2nd Respondent (in CRL MP(MD).Nos.2426 and 2427 of 2020 in CRL A(MD). 574/ 2019), this Court made the following order:

The police has registered a case against the petitioners / accused viz., Yogalakshmanan and Prabhu and others in Crime No.78 of 2019, on 28.10.2019, under sections 147, 148, 341, 294(b) 379, 307, 506(ii) I.P.C. and Section 3(1)(s), 3(2)(va) of SC/ST (POA) Act. The accused Yogalakshmanan and Prabhu were arrested on 29.10.2019 and they filed a bail petition in Crl.M.P.No.1577 of 2019 before the Special Court for Exclusive Trial of SC/ST cases, Virudhunagar at Srivilliputhur. The Special Court dismissed the bail petition. Against the same, the petitioners filed an appeal in Crl.A.(MD) No.574 of 2019, before this Court and they obtained a bail order on 07.01.2020.

2. The prosecution filed a petition in Crl.M.P.(MD)No.1392 of 2020, for cancellation of bail and the accused filed a petition in Crl.M.P.(MD)No.2426 of 2020, to condone the absence of 48 days for not complying with the condition of this Court in Crl.A.(MD)No.574 of 2019. In view of the facts and circumstances of the case, the other petition filed by the accused in Crl.M.P.(MD)



No.2427 of 2020, to amend the name Prabhu as Elangovan @ Prabhu.

3. Since all the three petitions are relating to the same matter, they are discussed together and disposed of by this common order.

WEB COPY

Crl.M.P. (MD)No.2427 of 2020 :

4. On the side of the petitioner, it is stated that in the F.I.R., the name of the petitioner was mentioned as Prabhu, whereas his real name is Elangovan and therefore, this petition has to be allowed and the name of Prabhu is to be amended as Elangovan @ Prabhu.

5. The petitioner has not mentioned this fact at the time of filing the bail petition either before the Special Court at Srivilliputhur or before this Court. If at all, the original name of Prabhu is Elangovan @ Prabhu, he can file an affidavit to that effect and on such affidavit, the trial Court is directed to amend the name of Prabhu as Elangovan @ Prabhu.

6. With the above directions, the amendment Petition in Crl.M.P.(MD)No.2427 of 2020 is disposed of.

Crl.M.P. (MD)No.2426 of 2020

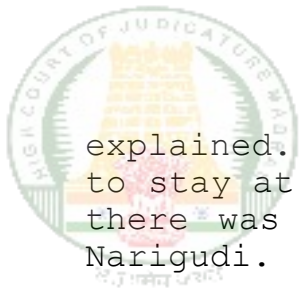
7. This petition is filed by the accused /Yogalakshmanan and Prabhu to condone the absence of 48 days in complying with the condition of this Court in Crl.A.(MD)No.574 of 2019, dated 07.01.2020.

8. On the side of the petitioners/ accused, it is stated that since in all the documents, the name of second petitioner is mentioned as Elangovan @ Prabhu, the concerned police Station denies permission to sign and hence, the second petitioner could not comply with the condition and prayed the absence of petitioners / accused to be condoned.

9. If, this is true, the police must have allowed the first petitioner to sign before the police station on that date. The reason for the non-compliance of the condition by the first petitioner is not explained in the petition affidavit.

10. On the side of the accused, it is stated that the first petitioner was under the impression that he may be arrested in Crime No.8 of 2020 of Narikudi Police Station and for that reason he was not able to sign before the Tallakulam Police Station.

11. This reason is orally represented by the counsel and it was not mentioned in the affidavit. In the affidavit, the reason for the absence of the first petitioner / Yogalakshmanan is not



explained. When this Court has clearly instructed both the accused to stay at Madurai and to sign at Madurai Tallakulam Police Station, there was no necessity for the first petitioner to be present at Narigudi.

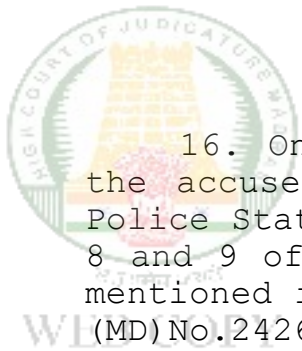
WEB COPY 12. The oral submissions of the Counsel clearly reveals that the petitioners/ accused were not staying at Madurai and they disobeyed the orders of this Court.

13. If at all the police did not allow the second petitioner / Prabhu to sign, it is his duty, to approach this Court and to get a modification order for appearing before the Court or before any other Forum as instructed by this Court. Only after a petition for cancellation of bail was filed, both the accused have filed this petition for condonation of their absence. Since the non-obedience of the Court order is clearly admitted, there is no sufficient reasons to allow this petition. The reason for filing the condonation petition is not satisfactory. Hence, Crl.M.P.(MD)No.2426 of 2020 is dismissed.

Crl.M.P.(MD)No.1392 of 2020

14. On the side of petitioner / prosecution, it is stated that both the accused, who are mentioned as respondents 1 and 2 in Crl.M.P.(MD)No.1392 of 2020, are having a number of previous cases. Bail was granted on 07.01.2020, on condition that they must reside within Madurai City and to sign before the Tallakulam Police Station daily and the accused / respondents 1 and 2 were released on 10.01.2020. The very next day ie. on 11.01.2020, itself, the first respondent / Yogalakshmanan involved in two other criminal cases within Narikudi Police Station in Crime No.8 of 2020, under Sections 147, 148, 427, 448, 324, 353, 294(b), 506(ii) I.P.C. read with 3(1) of TNPPDL Act and another case in Crime No.9 of 2020, under Sections 147, 148, 294(b), 448, 323, 353, 307 and 506(ii) I.P.C. Since the respondents 1 and 2 / accused did not comply the conditions imposed by this Court, it is prayed that the bail order granted to the respondents 1 and 2 / accused is to be cancelled.

15. On the side of the defacto complainant, it is stated that both the accused were involved in number of criminal cases. They had seven criminal cases, out of the same, four cases were filed under Section 307 I.P.C, and one case was under Section 302 I.P.C. When this Court has clearly ordered the accused to stay at Madurai, they failed to comply that condition. The first respondent / Yogalakshmanan went to Narikudi and there he attacked the Deputy Superintendent of Police, a case in Crime No.8 of 2020 was registered and again another case in Crime No.9 of 2020 was registered against the same accused for attacking the Block Development Officer.



16. On the side of the respondent/ accused, it is stated that the accused / Yogalakshmanan could not sign before the Tallakulam Police Station due to the fact that he may be arrested in Crime Nos. 8 and 9 of 2020 of Narikudi Police Station. No such averments was mentioned in the petition affidavit filed by the accused in Crl.M.P. (MD)No.2426 of 2020.

17. When this Court has directed the accused to stay at Madurai, the petitioner's presence at Narikudi itself is a clear violation of the condition. The reason stated on the side of the accused is not satisfactory.

18. On the side of the accused, it is stated that the real name of the accused/ Prabhu is Elangovan, but, he was wrongly mentioned as Prabhu in the F.I.R. and since the name difference, Tallakulam Police did not permit him to sign.

19. If at all the police did not allow the accused / Elangovan @ Prabhu to sign, it is his duty to approach this Court and to get a modification order for appearing before the Court or before any other Forum as instructed by this Court. Only after a petition for cancellation of bail is filed, both the accused filed this petition for condonation of their absence. This reason also is not satisfactory.

20. On the side of the accused, it is stated that only due to election dispute, both the cases are registered and already anticipatory bail was granted for the first respondent / Yogalakshmanan, in Crime Nos. 8 of 2020 and 9 of 2020.

21. Election dispute is not a reason permitting some one to indulge in criminal activities. It is seen that the accused, viz., Yogalakshmanan and Prabhu @ Elangovan failed to stay at Madurai and they failed to comply with the conditions imposed by this Court. Admittedly, both the accused have failed to sign before the concerned police station.

22.It is seen that both the accused have wantonly disobeyed the order of this Court, they failed to stay at Madurai and they failed to sign before the concerned Police Station. It is seen that the respondents are having number of previous cases including four cases under Section 307 I.P.C. and one case under Section 302 I.P.C.

23. In the above circumstances, the bail ordered by this Court, in Crl.A.(MD)No.574 of 2019, dated 07.01.2020 is hereby cancelled, the bail order granted to the accused shall stand cancelled and CRL.M.P.(MD)No.1392 of 2020 is allowed.

24.The Deputy Superintendent of Police, Tiruchuli, Virudhunagar District, is directed to secure the accused and to take further
<https://hcservices.courts.gov.in/hcservices/>



action, in accordance with law.

25. The Registry is directed to send a copy to the respondent police and to the Lower Court.

WEB COPY

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

- 1 The Sessions Judge,
Special Court for Exclusive trial of SC/ST cases,
Virudhunagar District at Srivilliputhur
- 2 The Deputy Superintendent Of Police,
Thiruchuli, Virudhunagar District.
- 3 The Inspector of Police
Tallakulam Police Station
Madurai District
4. The District Prison, Virudhunagar
5. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

ORDER DATED : 01/09/2020

=====

ORDER

=====

CRL MP(MD) . Nos.1392,2426 & 2427 of 2020
in CRL A(MD) . 574/ 2019

Giving direction and etc.
as stated within.

SRK(CO)

TR(04.09.2020) 6P 6C

<https://hcservices.ecourts.gov.in/hcservices/>