



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Jurisdiction

Wednesday, the Seventh day of October Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL MP(MD). No.3663 of 2020
in
CRL OP(MD) No.18689 of 2019

Sundaravel Ramesh
S/o. Sundaravel No.3/72a North Street
Thogur Thiruvaiyaru Taluk Thiruvarur
District.Singapore Address - 10a Verdun
Road Singapore - 207 277. ... Petitioner / Petitioner

Vs

- 1 The Superintendent of Police
Thanjavur District Thanjavur.
- 2 The Inspector of Police
Thanjavur West Police Station,
Thanjavur Thanjavur District.
Cr.No. 40 of 2014.
(Amended as per order of this Court dated 07.10.2020
in CRL MP(MD).No.4475 of 20)
- 3 The Foreigners Regional Offier
Bureau of Immigration Chennai - 600 006.
- 4 Senthil Kumar
S/o. Balasundaram No.2/3 4th Street
Periyar Nagar Thanjavur. ... Respondents / Respondents

Prayer in Crl MP(MD) No.3663 of 2020 :-

This Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, to modify the condition no.ii and iv imposed upon the petitioner vide Order dt.20.12.2019 made in Crl.OP.No.18689 of 2019 on the file of this Honble High Court.

Prayer in CRL OP(MD). 18689/ 2019 :

This Criminal Original Petition filed under section 482 of Criminal Procedure Code, to direct the 1st respondent to withdraw the lookout Circular dated 26.06.2019 in connection with the case in Cr.No.40/2014 pending on the file of the 2nd respondent issued against the petitioner.



ORDER:- This Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.R.Venkatesan, for M/s.Right Law Associates, Advocate for the Petitioner and of Thiru.V.Neelakandan, Adll Public Prosecutor, M/s.Victoria Gowri, Additional Solicitor General of India for third respondent, Mr.C.Ramachandran Advocate for the fourth respondents, this Court made the following order:

Heard the learned counsel on either side.

2.The fourth respondent has filed his objections, the learned counsel also reiterated the same.

3.It is seen that the petitioner is facing two cases, namely, C.C.No.123/2019 and P.R.C.No.21 of 2019, both are pending on the file of the learned Judicial Magistrate, Pudukottai. When the petitioner filed Crl.O.P(MD)No.755 of 2020, pertaining to P.R.C.No.21 of 2019, a learned Judge of this Court granted relief to the petitioner herein by stipulating following the conditions:

"(i)The petitioner shall arrive in India on or before 12.02.2020 and surrender his passport to the immigration authority.

(ii) Thereafter, he shall surrender before the learned Judicial Magistrate No.I, Pudukottai on or before 13.02.2020 and execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties, of who, one should be a blood relative, each for a like sum to the satisfaction of the above said Magistrate.

(iii) the sureties shall affix their photographs and left Thump impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

*(iv) The petitioner shall file an affidavit or undertaking that he will not leave India till the disposal of the criminal cases and he will co-operate for the progress of trial and he will also undertake that the prosecution witnesses will be cross examined on the same day of their examination in chief. In the event of non-cooperation, the trial Court shall take steps in accordance with law laid down by the Honourable Supreme Court of India in the case of **State of Uttar Pradesh Vs.Shambunath Singh reported in (2001) 4 SCC 667.**"*

4.Seeking modification, the petitioner herein filed Crl.M.P. (MD)No.2872 of 2020. By order dated 20.03.2020, the modification sought for was granted by this Court in the following terms.

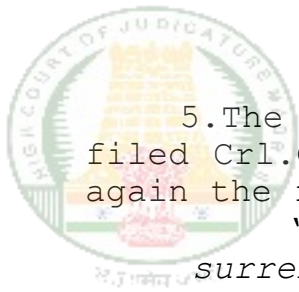
"3.The petitioner now wants modification as regards conditions (ii) and (iv). The petitioner states that the second condition that one of the two sureties must be blood relative is causing hardship. The learned counsel



for the defacto complainant would point out that the petitioner is having a number of relatives and therefore there need not be any difficulty for him to produce a blood relative surety. The petitioner would rebut the said submission by pointing that all his relatives are afraid of his erstwhile wife and that is why nobody is coming to stand as surety. The petitioner is even willing to deposit a sum of Rs.50,000/-. Even if the surety is taken, the result will only be a forfeiture of the surety. Therefore, the condition to produce blood relative surety can as well be dispensed with. The petitioner of course is directed to deposit a sum of Rs.50,000/- to the credit of P.R.C.No.21 of 2019 on the file of the learned Judicial Magistrate No.I, Pudukottai. Subject to this condition, the condition to produce blood relative surety is dispensed with.

4.The petitioner's counsel states that the petitioner will surrender before the Court concerned within a period of one week from the date of receipt of a copy of this order. He will file an affidavit before the committal Court that he will execute special vakalat nominating a counsel. The said counsel will represent him throughout. Even though this is a Sessions Case and Section 205 of Cr.P.C., is not applicable, this Court under Section 482 of Cr.P.C., permits the petitioner to appear through special counsel. The learned committal Magistrate or the Sessions Judge can dispense with the presence of the petitioner and get along with the case. This arrangement is devised so that the the petitioner's employment will not be affected and at the same time the progress of the case also will not be affected. The petitioner is bound to file an affidavit before the committal Court as well as before this Court indicating his address for service. It should not be difficult for this Court or the Trial Court to reach the petitioner on the said mobile number or E-mail ID. Under no circumstance, the E-mail ID or the mobile number will be changed. If the petitioner makes himself scarce and not available, that will be construed as an act of contempt and this Court will come down very heavily on the petitioner and that the petitioner will have to pay a very heavy price.

5.The petitioner's will cross examine the prosecution witnesses on the same day of their chief examination. The petitioner is at liberty to leave India after execution of the sureties before the Court below. The third respondent is directed to return the petitioner's passport."



5.The grievance of the petitioner is that when the petitioner filed Crl.O.P(MD)No.18689 of 2019, pertaining to C.C.No.21 of 2019, again the following four conditions are stipulated.

"(i)The petitioner shall arrive on 07.01.2020 and surrender his passport to the immigration authorities.

(ii) Thereafter, he shall surrender before the learned Judicial Magistrate No.I, Pudukottai on or before 22.01.2020 and execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the above said Court.

(iii) the sureties shall affix their photographs and left Thumb impression in the surety bond and the learned Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(iv) The petitioner shall file an affidavit or undertaking that he will not leave India till the disposal of the criminal cases and he will co-operate for the progress of trial and he will also undertake that the prosecution witnesses will be cross examined on the same day of their examination in chief. In the event of non-cooperation, the trial Court shall take steps in accordance with law laid down by the Honourable Supreme Court of India in the case of **State of Uttar Pradesh Vs.Shambunath Singh reported in (2001) 4 SCC 667."**

6.The petitioner wants modification on the same lines as given vide order dated 20.03.2020 in Crl.M.P(MD)No.2872 of 2020 in Crl.O.P (MD)No.755 of 2020. The petitioner states that earlier order was passed by this Court on 20.03.2020 and within three days thereafter, there was out break of Covid-19 and that therefore, he is unable to comply with the said conditions.

7.The next date of hearing on 21.10.2020, the petitioner would appear before Court concerned on 21.10.2020.

8.In view of the aforesaid undertaking given by the petitioner herein, I am of the view that the modification of the same lines can be made as regards the conditions stipulated in Crl.O.P.(MD)No.18689 of 2019.

9.The petitioner shall surrender before the learned Judicial Magistrate No.I, Pudukkottai on 21.10.2020. He will execute the bond for a sum of Rs.50,000/-. The petitioner is not in position to mobilize the sureties. Therefore, he states that he will deposit a sum of Rs.50,000/-[Rupees Fifty Thousand Only] to the credit of P.R.C.No.21 of 2019 on the file of the learned Judicial Magistrate No.I, Pudukottai.



10. Condition No.2 stipulated in order dated 20.12.2019 in Crl.O.P(MD)No.18689 of 2019 is modified. The petitioner is employed in Singapore. Therefore, if the petitioner surrenders his passport, he cannot travel back to Singapore and his entire life and career will be ruined. However, at the same time, it must be ensured that the petitioner is available to face the trial. The petitioner undertakes before this Court that he will file a special vakalat nominating the counsel. The said counsel will represent him throughout. The learned trial Judge can get along with the case. Such arrangement was directed by me vide order dated 20.03.2020, so that the petitioner's career is not affected and at the same time, there is no impediment in the progress of the trial.

11. The petitioner's counsel will cross examine the prosecution witnesses on the same day of their chief examination. The petitioner is at liberty to leave India, after the formalities of surrender and execution of bond are completed.

12. Since in very same Court below, both the proceedings are pending against the petitioner, the Court below shall complete the committal proceedings on 21.10.2020 itself. C.C.No.123 of 2019 will also to be expedited and concluded on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

13. With these directions, this criminal miscellaneous petition is allowed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate, No.I, Pudukkottai.
2. The Chief Judicial Magistrate, Pudukkottai.
3. The Superintendent of Police
Thanjavur District Thanjavur.
4. The Inspector of Police
Thanjavur West Police Station,
Thanjavur Thanjavur District.



5. The Inspector of Police
Thanjavur Medical College Hospital Police
Station Thanjavur Thanjavur District.

6. The Foreigners Regional Officer
Bureau of Immigration Chennai - 600 006.

7. The Additional Public Prosecutor,,
Madurai Bench of Madras High Court, Madurai

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 07/10/2020

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ORDER
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CRL MP(MD) . No.3663 of 2020
in
CRL OP(MD) No.18689 of 2019

Giving direction and etc.
as stated within.

KMK(CO)
TR(14.10.2020) 6P 9C