



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 03.01.2020  
CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

WEB COPY

Crl.O.P(MD).Nos.17805, 17806 and 17808 of 2019

State Rep. by  
The Inspector of Police,  
Manamadurai Circle,  
Sivagangai District.  
(Crime No.378 of 2019)

... Petitioner/Respondent/Complainant  
in all petitions

Vs

|                |                                                                 |
|----------------|-----------------------------------------------------------------|
| 1.M.Kaviarasan | ... Respondent/Petitioner/A2<br>in Crl.O.P.(MD)No.17805 of 2019 |
| 2.Akash        | ... Respondent/Petitioner/A4<br>in Crl.O.P.(MD)No.17806 of 2019 |
| 3.A.Arunkumar  | ... Respondent/Petitioner/A3<br>in Crl.O.P.(MD)No.17808 of 2019 |

**Prayer in Crl.O.P.(MD)No.17805 of 2019** :Criminal Original Petition filed under Section 439(2) of Cr.P.C. to cancel the bail which was granted to the respondent on 14.11.2019 in Crl.M.P.No.1861 of 2019 by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai.

**Prayer in Crl.O.P.(MD)No.17806 of 2019** :Criminal Original Petition filed under Section 439(2) of Cr.P.C. to cancel the bail which was granted to the respondent on 18.11.2019 in Crl.M.P.No.1878 of 2019 by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai.

**Prayer in Crl.O.P.(MD)No.17808 of 2019** :Criminal Original Petition filed under Section 439(2) of Cr.P.C. to cancel the bail which was granted to the respondent on 12.11.2019 in Crl.M.P.No.1843 of 2019 by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai.

|                                      |                                                    |
|--------------------------------------|----------------------------------------------------|
| For Petitioner<br>(in all petitions) | : Mr.A.Robinson<br>Government Advocate (Crl. side) |
|--------------------------------------|----------------------------------------------------|

|                                       |                      |
|---------------------------------------|----------------------|
| For Respondents<br>(in all petitions) | : Mr.PR.Boomee Rajan |
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**COMMON ORDER**

These Criminal Original Petitions have been filed by the Inspector of Police, Manamadurai Circle, Sivagangai District for cancelling the bail orders granted in favour of the respective respondents.

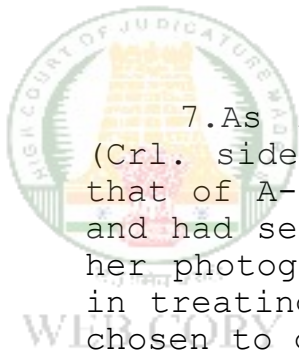
2.Heard the learned Government Advocate (Crl. side) appearing for the petitioner and also the learned counsel appearing for the respondents.

3.The de-facto complainant in this case is a minor girl, aged about 14 years. She is studying in 9<sup>th</sup> standard. Her case is that the first accused in this case namely, Visva, through the victim's friend made her meet him in private. Utilising the said occasion, he undressed the victim and also took her photograph. He later, blackmailed her and had sexual relationship with her. The respondents herein by turns blackmailed the victim by telling that they are also having the photo taken by Visva and that unless she submitted to them, they would circulate the photo in their Whatsapp group and shame her.

4.The victim states that she submitted to the carnal desires of the accused by turns on different dates. However, the accused had circulated the victim's photo in the Whatsapp group and that is how the mother of the victim came to be aware of these developments,. Through the help of child line, a complaint was lodged leading to registration of Crime No.378 of 2019, for the offences under Sections 342, 354(c), 366(A), 376(2), 509 IPC and Sections 6, 12, 14 (1) of POCSO Act and Section 67(A) and (B) of Information Technology Act. All the four accused were arrested. The Court below granted bail to A-2/Kaviarasan, A-3/Arunkumar and A-4/Akash on the footing that they were in custody for more than a month and that the investigation had reached a substantial stage and that therefore, grant of bail would not prejudice to the prosecution or investigation. In the meanwhile, the first accused, Visva moved this Court for bail and the same was dismissed as withdrawn on 19.11.2019.

5.The learned counsel appearing for the accused submitted that the accused herein were granted bail by the Court below only after they had spent a few weeks in prison and that they are complying with the condition ever since and that since the respondents herein had not come under adverse notice of the prosecution, the bail granted in their favour need not to be cancelled.

6.I am unable to agree with the submission made by the learned counsel for the accused/respondents.



7.As rightly pointed out by the learned Government Advocate (Crl. side), the case of A-2 to A-4 stands in the same footing as that of A-1/Visva. All the four accused had blackmailed the victim and had sexual relationship with her by turns. They had circulated her photograph in the nude. There was absolutely no justification in treating A-2 to A-4 on a different footing. The Court below had chosen to grant bail to A-2 to A-4 by proceeding on the premise that the investigation had reached a substantial stage.

8.I am afraid that since the Court below had not taken into consideration the fact the victim is a minor. The core argument of the learned Government Advocate (Crl. side) is that in these cases, bail ought not to have been granted in the first place at all. The Hon'ble Supreme Court has made a distinction between cancelling the bail granted by the Court below, on the ground that the bail conditions have been breached on the one hand and those cases where the bail ought not to have been granted on the other. The present case comes under the second category. The reasons given by the Court below for granting the relief to the accused are wholly unsustainable in law. The victim in this case is aged about just 14 years. The accused have preyed on her innocence. The victim had been made to have sexual relationship with the accused and they had blackmailed and intimidated her. The case on hand is a crime against society.

9.Therefore, I have no hesitation to cancel the bail granted by the Court below in favour of the respective respondents herein. The orders granting bail are set aside and these Criminal Original Petitions are allowed. The petitioner is directed to take immediate steps to secure the accused to commit them to custody forthwith.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Sessions Judge,  
Fast Track Mahila Court,  
Sivagangai.

2.The Inspector of Police,  
Manamadurai Circle, Sivagangai District.



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

+3 CC to M/s.PR.BOOMEERAJAN, Advocate (SR-356[F] dated 06/01/2020 )

CrI.O.P(MD).Nos.17805, 17806 and 17808 of 2019  
03.01.2020

JMN(10.01.2020) 4P : 7C