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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

CrI.O.P.No.29482 of 2015

K.Krishna Moorthy .. Petitioner / Defacto Complainant

Vs.

1.Pechimuthu .. 1st Respondent / Petitioner / Accused

2. State Rep. by
The Inspector of Police,
T4 - Maduravoyal Police Station,
Chennai.
(Crime No. not known of 2014).

.. 2nd Respondent / Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 439(ii) Cr.P.C., to cancel the Anticipatory Bail granted to 2nd Respondent dated 09.01.2015 made in the CrI.O.P.No.118 of 2015 on the file of this Court.

For Petitioner .. No appearance

For R1 .. Mr.S.Sathiyaraj

For R2 .. Mr.E.Raj Thilak,
Govt.Advocate (Criminal Advocate)

ORDER

There is no representation on behalf of the petitioner herein. There was also no representation even on the previous hearing date on 02.09.2021. On that particular date, a direction was given to the 1st respondent / Pechimuthu s/o.Appadurai, residing at Gowriwalkam, Chennai, to appear before the 2nd respondent herein / T4 - Maduravoyal Police Station.

2.It is informed by Mr.S.Sathiyaraj, learned counsel for the 1st respondent that the 1st respondent actually appeared before the 2nd respondent / Inspector of Police, T4 - Maduravoyal Police Station, on Saturday / 04.09.2021. This, as a fact, is



also affirmed by Mr.E.Raj Thilak, learned Government Advocate (Criminal Side).

3.The necessity for passing such a direction arose in the following manner.

4.A perusal of the record showed that the 1st respondent / Pechimuthu had originally filed Crl.O.P.No.26355 of 2014 seeking anticipatory bail under Section 438 of Cr.P.C which came up for consideration before a learned Single Judge of this Court and by order dated 26.11.2014, noting that there was an earlier order on 20.10.2014 that the 1st respondent herein should pay the petitioner herein a sum of Rs.4,00,000/- and produce the receipt and since that was not done, anticipatory bail was refused to be granted and the petition was dismissed.

5.Thereafter, the 1st petitioner herein had again filed Crl.O.P.No.118 of 2015 indicating the crime number "not known" and given the provision of sections as 506(ii) and 294 (b) of IPC. In that petition, anticipatory bail was granted on 09.01.2015. Owing to that fact, this Court had directed that the 1st respondent should appear before the 2nd respondent herein which order had been complied with. In the order in which anticipatory bail was granted, it is seen that before the learned Single Judge, there was a representation on behalf of the intervenor / present petitioner herein and after considering the rival arguments, anticipatory bail had been granted. Thus it was an order passed on merits and on examining the facts of the case. The learned Single Judge had also noted that there are financial transactions between both sides and that there is a cheque bouncing matter, and giving reasons, anticipatory bail was granted.

6.It would be highly inappropriate on the part of this Court to interfere with such an order. The fact that the petitioner had mentioned that crime number "not known" would pale into insignificance since it is not known whether both the original petition relate to the same financial transaction or different transactions. As stated by the learned Single Judge, there are financial transactions and also cheque bouncing cases.

7.In view of that, I am not inclined to cancel the anticipatory bail already granted. I am also informed by Mr.E.Raj Thilak, learned Government Advocate (Criminal Side) that the final report has been filed before the competent jurisdictional Magistrate court and the onus is now on the part of the parties / the petitioner and the 1st respondent to appear before the said Court. The petitioner herein should tender evidence and the 1st respondent should answer the summons issued by the Court. Let that process continue.



8. With the above observations, this Criminal Original Petition is dismissed. It is to be again noted that there is no representation on behalf of the petitioner, but the order passed on perusal of the records.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
T4 - Maduravoyal Police Station,
Chennai.

2. The Public Prosecutor
High Court of Madras.

Cr1.O.P.No.29482 of 2015

CP(CO)
CT(27/09/2021)