



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.7294 of 2021

IN CRL OP.16317 of 2020

A.PRAKASH [PETITIONER/INTERVENER/DEFACTO COMPLAINANT]

Vs

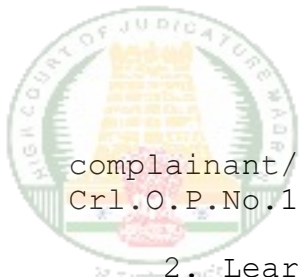
1 S.KARUNAKARAN [RESPONDENT/PETITIONER/ACCUSED]

2 THE STATE REP.BY
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, TEAM-I,
CHENNAI-600 007.
CRIME NO.187 OF 2019.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to modify the condition imposed by this Hon'ble court in Crl.OP.No.16317 of 2020 dated 10.11.2020 that "(b) the petitioner shall through his counsels and hand over the documents namely (i) the power of attorney dated 23.08.2006 registered as Doc.No.2085 of 2006, (ii) the alleged fabricated life certificate stated to be issued by Dr.M.J.Gopal, and (iii) the sale deed dated 27.08.2018 registered as document No.9415 of 2018 before the concerned magistrate. The learned magistrate after verification shall retain it in a sealed cover in his custody in connection with the Crime No.187 of 2019, until further order. (Further action in respect of the above document shall be taken after the outcome of the SLP filed by the petitioner herein)".

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.ARUN ANBUMANI, Advocate for M/S.M.NANDHAKUMAR, Advocate for the Petitioner and of M/S.K.THILAGESWARAN, Advocate on behalf of the R-1 and of MR. S.SUGENDRAN, Govt. Advocate (Crl. Side) on behalf of the R-2 the court made the following order:-

This petition has been filed by the petitioner/de facto



complainant/intervenor to modify the bail condition imposed in CrI.O.P.No.16317 of 2020 dated 10.11.2020.

2. Learned counsel for the petitioner/de facto complainant would submit that on a complaint given by the petitioner, a case in Crime No.187 of 2019 came to be registered against the first respondent herein/A2 and others for offences punishable under Sections 409, 465, 468 and 471 IPC.

3. The case of the de facto complainant is as under:-

(i) Forging the signatures of the petitioner and his family members, the respondent/A2 had fabricated a Life Certificate, based on which, he had executed a sale deed in favour of the second accused. Earlier, the first respondent and his father had filed CrI.O.P.No.28113 of 2019 seeking to quash FIR in Crime No.187 of 2019 and this court, while dismissing the quash petition, on 3.3.2020, had directed the accused to produce all the documents connected with the power of attorney and the fabricated Life Certificate issued by Dr.M.J.Gopal alongwith the sale deed to the investigation officer. Further, the investigation officer, on receipt of the documents, was directed to complete the investigation in Crime No.187 of 2019 and to file the final report within a period of 12 weeks from the date of receipt of copy of the order before the jurisdictional Magistrate concerned. Against the dismissal of the quash petition, the first respondent/A2 had filed SLP (Criminal) No.5009 of 2020 before the Hon'ble Supreme Court. Pending the same, the first respondent/accused was arrested on 25.9.2020. He had filed an application for bail in CrI.O.P.No.16317 of 2020 and when the matter had come up for hearing, the petitioner/de facto complainant, during investigation, had brought to the knowledge of this court about the direction passed by this court regarding production of documents. At that time, the first respondent herein/A2 had given an undertaking before the court agreeing to produce the documents in a sealed cover and that he had agreed that the documents might be handed over to the respondent, investigation officer subject to the result of the SLP (Criminal).

(ii) In the affidavit of undertaking, the first respondent herein/A2 had undertaken that in the case of dismissal of SLP (CrI.) No.5009 of 2020, he would comply with the order passed by this court in CrI.O.P.No.28113 of 2020 dated 3.3.2020 and produce the document before the investigation officer as directed by the court.

(iii) This court, taking into consideration the affidavit of undertaking filed by the respondent/accused, had granted bail to him in CrI.O.P.No.16317 2020 and imposed a condition as under:-

"(b) The petitioner shall through his counsels produce and hand over the documents namely (i) the power of attorney dated 23.8.2006 registered as Doc.No.2085 of 2006 (ii) the alleged fabricated life certificate stated to be issued by Dr.M.J.Gopal and (iii) the sale



deed dated 27.8.2018 registered as document No.9415 of 2008 before the concerned Magistrate. The learned Magistrate after verification shall retain it in a sealed cover in his custody in connection with the Crime No.187 of 2019, until further orders. (Further action in respect of the above document shall be taken after the outcome of the SLP filed by the petitioner herein) "

(iv) All along, the first respondent herein/A2 had been stalling the investigation stating that proceedings before the Apex Court is pending.

4. Now, the learned counsel for the petitioner/de facto complainant would submit that the SLP (Crl.) No.5009 of 2020 had been dismissed as withdrawn on 18.11.2021 and in such circumstances, there is no bar for the second respondent herein to get the documents which are now in the custody of the court for investigation and sending it to handwriting expert for comparing the signatures found in the Life Certificate with the signatures of the de facto complainant and his family members and to give an opinion. He would submit that the present petition has been filed seeking modification of the condition.

5. Learned counsel for the respondent/accused would submit that the SLP filed by the respondent/accused has been dismissed on 18.11.2021.

6. Heard the learned counsel appearing for the parties.

7. Since the SLP has been dismissed, the respondent/accused has to comply with the undertaking. Already the documents have been handed over and they are kept in a sealed cover on the file of the Special Metropolitan Magistrate, CCB-CBCID Cases, Egmore, Chennai.

8. In view of the above, the condition imposed by this court in clause (b) of para 11 of the order in Crl.O.P.No.16317 of 2020 dated 10.11.2020 is clarified as under:-

"The learned Magistrate is directed to hand over the documents to the investigation officer after getting due acknowledgment. The second respondent, investigation officer is at liberty to proceed with the investigation by sending the alleged fabricated documents for obtaining expert opinion. The investigation officer shall take every endeavour to complete the investigation within a period of six months from the date of receipt of a copy of this order."



The present petition is ordered accordingly.

WEB COPY

-sd/-

22/11/2021

This order, on being produced, be punctually observed and carried
into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL METROPOLITAN MAGISTRATE,
CCB-CBCID CASES, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
TEAM-I, CHENNAI-600 007.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.M.NANDHAKUMAR Advocate on payment of necessary
charges

Order

in
CRL MP.7294/2021

in
CRL OP.16317/2020

Date :22/11/2021

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RW 30/11/2021