



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.22495 OF 2018

AND

CRL.MP.NO.12457 OF 2018

1. Easuraj
2. Asha,
3. Vijakula Mary, ... Petitioners/Accused 1 to 3

Vs.

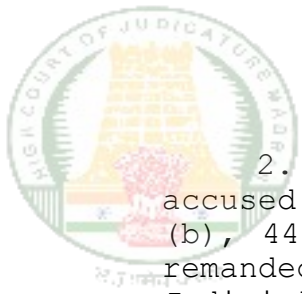
1. The State rep.by the  
Inspector of Police,  
Perambur Police Station,  
Nagapattinam District.
2. A.Nirmala ... Respondents/Complainants

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, prayed to set aside the order passed in Crime No.82 of 2018 dated 18.05.2018 cancelling the bail as well as the anticipatory bail granted to the petitioners/Accused 1 to 3 and allow this petition.

|                 |                                                   |
|-----------------|---------------------------------------------------|
| For Petitioner  | : M/s.K.Balakrishnan                              |
| For Respondents |                                                   |
| For R1          | : Mr.C.E.Pratap<br>Government Advocate (Crl side) |
| For R2          | : Mr.G.Sudhagar                                   |

ORDER

This Criminal original petition has been filed to set aside the order passed in Crime No.82 of 2018 dated 18.05.2018 cancelling the bail as well as the anticipatory bail granted to the petitioners/Accused 1 to 3.

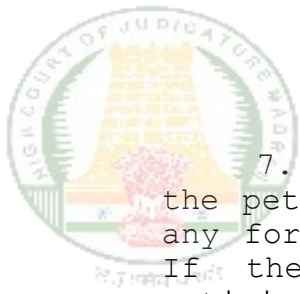


2. The case of the prosecution is that the petitioners are accused in Crime No.82 of 2018 for the offence under Section 294 (b), 447, 506(ii) of IPC. The first petitioner was arrested and remanded to judicial custody and enlarged on bail by the Judicial Magistrate No.2, Mayiladuthurai (FAC) in Cr.No.82 of 2018 dated 18.05.2018. Subsequently, the second and third petitioners have approached the District and Sessions Court, Nagapattinam for anticipatory bail and thereafter, the first petitioner was released on Bail and the second and third petitioners were released on Anticipatory Bail with certain conditions. Even thereafter, the petitioners have continuously given life threat to the second respondent. In fact, trespassed into the house, for which, in view of tampering the witness, the second respondent / defacto complainant filed a cancellation of bail before the trial court under section 439 of Cr.P.C. Though CrI.MP. Number was not assigned, notice was issued to the petitioners. The petitioners were not appeared before the trial court. Hence, the bail and anticipatory bail granted by the respective Courts are cancelled vide order dated 18.05.2018 in Cr.No.82 of 2018 and as against the cancellation of bail and anticipatory bail orders, the present petition has been filed by the petitioners.

3. Mr.K.Balakrishnan, the learned counsel for the petitioners submits that though the bail and anticipatory bail granted by the respective Courts in favour of the petitioners, without any opportunity given to the petitioners, the bail and anticipatory bail was cancelled. On instructions, he further submits that the petitioners hereinafter will not disturb the defacto complainant in any form in future. Hence, he prays for appropriate orders.

4. Mr.G.Sudhagar, learned counsel for the the second respondent/defacto complainant submits that this Court may record the undertaking given by the petitioner and pass appropriate orders.

5. Considering the facts and circumstances of the case and also the fact that the case was registered in Crime No.82 of 2018 and it appears that till date, the investigation was not yet completed and the allegations levelled against the petitioners that the petitioners tried to tamper the witness by threatening the defacto complainant, for which, the Trial Court has cancelled the bail and anticipatory bail orders by relying the decision of Hon'ble Apex Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and taking into consideration that the petitioners shall come forward to give an undertaking that they will not threaten the defacto complainant in future.



7. In view of the undertaking given by the petitioners that the petitioners shall not to harass the defacto complainant in any form in future, the order of the trial court is set aside. If the petitioners violate the condition, the bail and anticipatory bail granted by this Court will be automatically cancelled and further, the Law Enforcing Agency is directed to complete the investigation within a period of eight weeks from the date of receipt of a copy of this Order.

8. Accordingly, this Criminal Original Petition is allowed. Consequently, connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Vv

To

1. The Judicial Magistrate -II,  
Mayiladuthurai.
2. The District and Sessions Judge,  
Nagapattinam.
3. The Inspector of Police,  
Perambur Police Station,  
Nagapattinam District..
4. The Public Prosecutor,  
High Court, Madras

Crl.O.P.No.22495 of 2018  
and  
Crl.MP.No.12457 of 2018

MG(CO)  
CS/02/11/2021