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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.OP.No.13157 of 2021
in
Crl.OP.No.8240 of 2021

N.Nandhini, F/A 19 yrs,
D/o.Late.Narendar Singh,
No.C10, Goviga Illam,
Rajeswari Avenue,
Old Perungalathur,
Chennai 600 063.

... Petitioner/Defacto Complainant

Vs.

1.A.Logeswaran,
No,1A, 1st Cross Street,
Bharathi Nagar, Zameen Pallavaram,
Chennai 600 043.

2.State, Rep. by its
Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai 600 045.

3.The Deputy Commissioner of Police,
(Crime Against Women & Children),
Deputy Commissioner Office Building,
Greens Road, Thousand Lights,
Chennai 600 006.

... Respondents/Respondents

Criminal Original Petition filed under Section 439 (2) of
Criminal Procedure Code, to cancel the bail granted in
Crl.O.P.No.8240 of 2021 dated 12.05.2021.

For Petitioner : Mr.Abdu Kumar Rajaratnam

For Respondents : Mr.L.Baskaran
Government Advocate (Crl. side)



O R D E R

This Petition is filed to cancel the bail granted to the 1st Respondent in Crl.O.P.No.8240 of 2021 dated 12.05.2021.

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2.The learned counsel appearing on behalf of the Petitioner submitted that the Petitioner/defacto complainant gave a complaint against the 1st Respondent on 04.03.2021, alleging that the 1st Respondent committed rape on her on 03.03.2021. She has stated that the 1st respondent is her own sister's husband. The Petitioner, her Mother, her Sister and her Sister's Husband are staying in the same house. On 03.03.2021 at about 12.00 noon, when her sister and mother were not at home, the 1st Respondent had forcibly raped her at knife point, despite the protest made by the Petitioner. Then he threatened the Petitioner not to tell the incident to anyone, else she would be eliminated. Subsequently, the 1st Respondent filed bail Petition in Crl.O.P.No.8240 of 2021 before this Court. The said bail Petition was disposed of by this Court on 12.05.2021.

3.In the bail Petition, the 2nd respondent in this Petition was shown as sole respondent. On considering the submissions made by the learned counsel who appeared for the Petitioner and the learned Additional Public Prosecutor and the fact that material part of the investigation was completed, this Court ordered bail to the 1st Respondent with conditions.

4.The present Petition is filed for cancellation of bail on the main ground that at the time of filing the bail Petition, the investigation of the case was already transferred to the 3rd Respondent viz., The Deputy Commissioner of Police (Crime against Women & Children), Chennai, and the 2nd Respondent has no locus standi to give instruction to the learned Additional Public Prosecutor, after the case was transferred to the 3rd Respondent. In W.P.No.8644 of 2021 filed by the Petitioner, it was specifically alleged that the 1st Respondent threatened the Petitioner through unknown phone numbers and compelled her to withdraw the complaint. In the said Writ Petition, the 3rd Respondent was directed to investigate the allegation made by the Petitioner and to consider providing police protection to the Petitioner. The said order was passed on 23.04.2021. The 2nd Respondent herein who is the sole respondent in W.P.No.8644 of 2021, despite knowing the order passed by this Court, had chosen to give instruction to the Additional Public Prosecutor at the time of hearing the bail Petition. The same is not correct and illegal. The learned counsel further submitted that threat continues and therefore, seeks for cancellation of bail granted in Crl.O.P.No.8240 of 2021 dated 12.05.2021.



5. Eventhough the notice served on the 1st respondent through police, no one appears on behalf of the 1st Respondent.

6. Heard the learned counsel appearing on behalf of the Petitioner, learned counsel appearing on behalf of the 2nd Respondent and the learned counsel appearing on behalf of the 3rd Respondent.

7. In view of the facts narrated above, the 2nd Respondent has no legal authority to instruct the Additional Public Prosecutor and in fact he was given wrong instructions. On the basis of the wrong instructions, submissions have been made before this Court by the learned Public Prosecutor, while Bail Petition was argued, resulting in ordering the bail to the 1st Respondent.

8. In view of the above said suppression of the material facts, this Court finds that the bail granted to the 1st Respondent in Crl.O.P.No.8240 of 2021 dated 12.05.2021 has to be necessarily cancelled.

9. Accordingly, the bail granted to the 1st Respondent in Crl.O.P.No.8240 of 2021 dated 12.05.2021 is cancelled. The 3rd Respondent police is directed to take the 1st Respondent into custody and investigate the matter in accordance with law.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai 600 045.
2. The Deputy Commissioner of Police,
(Crime Against Women & Children),
Deputy Commissioner Office Building,
Greams Road, Thousand Lights,
Chennai 600 006.
3. The Public Prosecutor,
High Court, Madras.

Crl.OP.No.13157 of 2021

KSM (CO)
PR (24/09/2021)