



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.09.2021
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17376 of 2021

R.Maharajan.

...Petitioner

Versus

The State

Rep by Station House Officer,
CCIW, Cuddalore Police Station.
Cuddalore District.
(Crime No.05 of 2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records and set aside the order dated 02.09.2021 made in Crl.M.P.No.5865 of 2021 on the file of the Principal Sessions Judge.

For Petitioner : Mr.D.Baskar.
For Respondents: Mr.A.Damodharan,
Addl. Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to set-aside the order dated 02.09.2021 made in Crl.M.P.No.5865 of 2021 on the file of the Principal Sessions Court, Cuddalore.

2. The petitioner, who is arrayed as A2 in Crime No.5 of 2020 for the offences under Sections 120(B), 408, 471 and 477-A IPC, was granted bail with certain conditions by the Principal Sessions Judge, Cuddalore in Crl.M.P.No.155 of 2021 on 19.01.2021. One of the conditions is that the petitioner has to deposit a sum of Rs.1,50,000/- (One lakh Fifty thousand only) before the lower Court to the credit of the Crime No.5 of 2020. But, the petitioner was unable to comply and hence, he had filed a petition in Crl.M.P.No. 5865 of 2021 seeking modification and the same was dismissed on 02.09.2021 by the Principal Sessions Judge, Cuddalore. Against which, the present petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner belongs to a poor agricultural family and he is now working as a Watch man in Ambiga Sugars Ltd., Pennadam, thereby getting only a meager income, and hence, he is only able to make his livelihood. Further more, He had recently lost his daughter during September 2020 and thereafter his Son-in-law



had created lot of problems with the petitioner. Hence, he is suffering with lot of mental and physical constraints. He further submitted that the Society is managed by A1/Secretary, who is a Departmental Official and Superior, is the only person to maintain the records and sign in all the documents. The petitioner, who was the President, was only a nominal head and he had no role in the management and the day to day affairs of the Society. He would further submit that the petitioner had already paid a sum of Rs.70,000/- .

4. The learned Additional Public Prosecutor would submit that the petitioner is A2. He along with A1 had misappropriated the funds of the society Though A1 is the Secretary of the Co-operative Department, this petitioner/A2 is equally responsible for the running of the society. He would further submit that the petitioner had recently lost his daughter and he is having some health and family problems and he is presently working as a watchman. During the Departmental enquiry, they had paid a sum of Rs.38,000/- only. He would also submit that Under Section 81, Surcharge Proceedings are contemplated.

5. This Court considered the submissions made on either side and perused the materials available on records carefully.

6. From the perusal of the materials, it is seen that though the petitioner had obtained an Anticipatory bail during January 2021, nearly 8 months, he is unable to furnish the sureties. It is not disputed that the petitioner had recently lost his daughter and now working as a watchman. The loss occurred to the society by the petitioner, who was working as Secretary, can be recovered through the surcharge proceedings. In view of the same, now directing the petitioner to make a deposit of Rs.1,50,000/- (One lakh Fifty thousand only) would amount to presupposing the defence of the petitioner and further the condition appears to be an onerous one. Hence, this court is inclined to set-aside the conditional order.

7. Accordingly, this Criminal Original Petition is allowed and condition for deposit of Rs.1,50,000/- (One lakh Fifty thousand only) passed by the Principal Sessions Judge, Cuddalore in the anticipatory bail petition of the petitioner in CrI.M.P.No.155 of 2021, dated 19.01.2021, alone is set-aside and Other conditions remain unaltered.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar



To

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1. The Station House Officer,
CCIW, Cuddalore Police Station.
Cuddalore District.
2. The Public Prosecutor,
High Court, Madras.
3. The Principal Sessions Judge
Cuddalore

Crl.O.P.No.17376 of 2021

VSNII (CO)
SP (28/10/2021)