



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23208 of 2021

G.Navasakthi,
W/o, Ganapathi

...Petitioner

Versus

State by

1. The Sub-Inspector of Police,
District Crime Branch,
Cuddalore District.

2. Umamageswari
W/o Jayakumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.2541 of 2021 dated 11.11.2021 passed by the Learned Judicial Magistrate Court No.I, Viruthachalam, Cuddalore District and further to cancel the order of bail in Crl.M.P.No.2403/2021 dated 17.10.2021 on the file of the Learned Judicial Magistrate Court No.I, Viruthachalam, Cuddalore.

For Petitioner : Mr.P.Muthamizh Selvakumar

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner is the defacto complainant aggrieved against the order passed by the learned Judicial Magistrate No.I, Viruthachalam, dismissing the petition in Crl.M.P.No.2541 of 2021 by an order dated 11.11.2021, has filed this present Criminal Original Petition.

2. The contention of the petitioner is that the petitioner being the defacto complainant and on her complaint, a case in Crime No.21 of 2021 got registered against the second



respondent for the offences under section 294(b), 420, 506(i) I.P.C. The second respondent cheated a sum of Rs.43 lakhs. Earlier, second respondent had moved the bail application before the Judicial Magistrate, Virudhuchalam and the same was dismissed. Thereafter, the second respondent had filed the bail application in CrI.M.P.No.5576 of 2021 before the learned Sessions Court, Cuddalore. The learned Sessions Judge, Cuddalore by an order dated 02.09.2021 granted bail to the second respondent by imposing condition that she shall deposit a sum of Rs.23 lakhs in the account of abovesaid crime number. Suppressing this fact of obtaining bail, the second respondent filed a petition under section 167(2) Cr.P.C., seeking statutory bail for the reason that the second respondent was arrested on 17.07.2021 and she had accrued right of statutory bail and filed a petition in Cr.M.P.No.2403 of 2021, before the Judicial Magistrate No.I, Vridhachalam, seeking bail. The learned Judicial Magistrate, by order dated 17.09.2021, granted bail. Aggrieved against grant of bail, the petitioner being the defacto complainant filed CrI.M.P.No.2541 of 2021, seeking cancellation of bail, for the reason that earlier the second respondent was directed to deposit Rs.23 lakhs to the credit of Crime No.21 of 2021 and she had not complied with, suppressing the same, second bail application has been filed before the Judicial Magistrate No.I, Virudhachalam and obtained bail under section 167(2) Cr.P.C. Hence, the petitioner has filed the Criminal Original Petition, seeking cancellation of bail.

3. Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the first respondent submitted that earlier bail order of the second respondent in CrI.M.P.No.5576 of 2021 by the learned Sessions Judge, Cuddalore was on merits of the case, in which conditions were imposed and one of the condition was to deposit of Rs.23 lakhs to the credit of the abovesaid crime number. Thereafter, the second respondent was unable to deposit the conditional amount and continued in confinement. The second respondent was arrested on 17.07.2021 and she had accrued right of statutory bail. Thereafter, she filed bail application under section 167(2) Cr.P.C before the Magistrate Court in CrI.M.P.No.2403 of 2021 and the same was granted. Now, the petitioner cannot make allegation that there has been suppression of fact and seeks bail to be cancelled. The learned Magistrate rightly discussed the same and dismissed the petition and hence, no interference is necessary, hence strongly opposed this petition.



4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and perused the materials on record.

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5. Considering the submissions of the learned counsel on either side, it is seen that the second respondent earlier obtained bail on merits under section 439 Cr.P.C. Thereafter, unable to comply with the conditions, she continued to remain in confinement. Subsequent bail was granted under section 167(2) Cr.P.C which now cannot be questioned on the ground of suppression and cancellation of bail cannot be entertained. The Judicial Magistrate has rightly dismissed the same finding that there is no suppression and no ground for cancellation of bail.

6. In view of the above, order dated 11.11.2021 passed in Crl.M.P.No.2541 of 2021 on the file of the Judicial Magistrate No.I, Viruthachalam is confirmed. Accordingly, the Criminal Original Petition is dismissed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To

1. The Judicial Magistrate,
Judicial Magistrate Court No.I,
Viruthachalam,
Cuddalore District.

2. The Sub-Inspector of Police,
District Crime Branch,
Cuddalore District.

3. The Public Prosecutor,
High Court,
Madras.

CRL.O.P.No.23208 of 2021

GSM(CO)
SP(16/12/2021)