



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 16.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.121 of 2021

and

Crl.M.P.(MD)No.1384 of 2021

WEB COPY

- 1.Ponraj
- 2.Auto Sakthi @ Sakthivel
- 3.Ganesan
- 4.Nagaraj
- 5.Lingaraj
- 6.Chinnadurai

.. Petitioners

Vs.

- 1.Pon Sudalai Raj
- 2.State through
The Sub Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
In Crime No.208 of 2018

.. Respondents

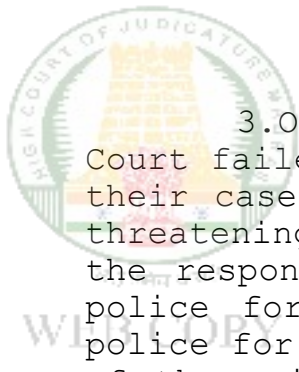
Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records pertaining to the order dated 05.01.2021 passed in Cr.M.P.No.221 of 2020 on the file of the learned Judicial Magistrate, Sathankulam and to set aside the same.

For Petitioners	: Mr.R.Pon Karthikeyan
For Respondents	: Mr.S.Chandrasekar
For R2	Additional Public Prosecutor
For Respondent No 1	: Mr.P.Balamurugan

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.221 of 2020 dated 05.01.2021, on the file of the learned Judicial Magistrate, Sathankulam.

2.The case against the petitioners is that on 22.10.2018, the petitioners waylaid the defacto complainant and caused him injuries. A case was registered in Crime No.208 of 2018 against the petitioners under Section 147, 148, 294(b), 324 and 379 of IPC. The petitioners obtained an anticipatory bail in Crl.O.P.(MD)No.21232 of 2018 dated 16.12.2018 and in Crl.O.P.(MD)No.5167 of 2019 dated 05.04.2019 with a condition to appear before the respondent police daily at 10.30 a.m., for a period of two weeks. On 09.01.2020, the defacto complainant filed a petition in Cr.M.P.No.221 of 2020 before the learned Judicial Magistrate, Sathankulam, for cancellation of bail and the learned Magistrate cancelled the anticipatory bail order. Against that order, the petitioners have preferred this revision.



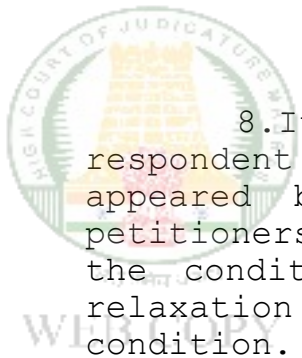
3. On the side of the petitioners, it is stated that the lower Court failed to give an opportunity for the petitioners to put forth their case. No notice was served upon the petitioners. Only due to threatening of the police, the petitioners failed to appear before the respondent police. The petitioners 1 to 5 appeared before the police for seven days and the 6th petitioner appeared before the police for four days. The trial Court only based on the last portion of the main order, has assumed that the lower Court has power to cancel the bail. The lower Court failed to hear the petitioners for the reason for the non appearance and the order passed by the trial Court is to be set aside.

4. On the side of the first respondent, it is stated that the petitioners availed the bail order from this Court in Crl.O.P.(MD) No.21232 of 2018 on 16.12.2018 and Crl.O.P.(MD)No.5167 of 2019 on 05.04.2019 and that the condition was imposed upon the petitioners to appear before the respondent police at 10.30 a.m., for a period of two weeks. On 17.12.2018, the petitioners 1 to 5 surrendered before the Court and on 29.04.2019, the sixth petitioner surrendered before the Court and they were let out on bail on the same date. The petitioners were not properly appearing before the second respondent. The petitioners 1 to 5 appeared before the second respondent only for a period of seven days. The 6th petitioner appeared before the second respondent only for four days and failed to appear subsequently and the trial Court has rightly cancelled the bail order.

5. On the side of the second respondent, it is stated that the petitioners have not obeyed the Court order and they violated the conditions imposed by this Court. At the time of filing of the anticipatory bail petition, they undertake to abide any condition imposed by this Court and later they failed to comply the condition. The defacto complainant got the particulars through RTI and initiated proceedings before the learned Judicial Magistrate for the cancellation of the bail. The learned Judicial Magistrate is having power to cancel the bail. Permission was granted by this Court to the learned Magistrate to cancel the bail. Since the petitioners did not obey the Court order, they are not entitled to approach this Court for any other reliefs and prayed the petition to be dismissed.

6. It is seen that the petitioners obtained the bail order from this Court and the petitioners 1 to 5 appeared before the second respondent only for seven days and the sixth petitioner appeared before the second respondent only for four days. Admittedly the petitioners did not comply the conditions imposed by this Court.

7. On the side of the petitioners, it is stated that the petitioners were threatened by the police and due to life threat, the petitioners failed to appear before the respondent police.



8.It is seen that the petitioners 1 to 5 appeared before the respondent police in the year 2018 whereas the sixth petitioner appeared before the respondent police in the year 2019. The petitioners 1 to 6 did not approach this Court for modification of the condition. No steps were taken by the petitioners for the relaxation of the condition or for the modification of the condition. In the anticipatory bail order itself, this Court has clearly directed the learned Judicial Magistrate to take proper action against the petitioners in accordance with law, if the conditions have not been complied with. The first respondent did not approach the learned Judicial Magistrate for the cancellation of the bail order. It was the defacto complainant, who approached the trial Court. But the fact remains the same that the petitioners failed to comply the condition.

9.A perusal of the lower Court order reveals that in the petition filed by the defacto complainant in Crl.M.P.No.221 of 2020, notice was issued to the petitioners. The case was adjourned to 09.12.2020 and again on 04.01.2021, the case was adjourned. In the cancellation petition, the counsel for the petitioner himself has stated that any order can be passed on that petition, as the petitioners have failed to appear before the Court in the petition proceedings.

10.It is seen that the petitioners failed to appear even before the trial Court. The only explanation for their non appearance is threatening of the first respondent. Even when they are in bail from the year 2018 onwards, the petitioner have not appeared before this Court for modification and relaxation. The reasons stated by the petitioners is unbelievable. Since the petitioner failed to comply the condition, the order passed in Cr.M.P.No.221 of 2020 dated 05.01.2021, on the file of the learned Judicial Magistrate, Sathankulam is correct. There is nothing sufficient enough to interfere in the impugned order. Hence, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The District Munsif cum Judicial Magistrate, Vilathikulam.

2.The Inspector of Police,
Tharuvaikulam Police Station,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.ASHOK, Advocate (SR-11973[F] dated 17/03/2021)

+1 CC to M/s.I.PON KARTHIKEYAN, Advocate (SR-12289[F] dated
18/03/2021)

Crl. R.C.(MD)No.121 of 2021
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PK(CO)
KB(25.03.2021) 4P 6C