



WEB COPY

Crl. R.C.(MD)No.103 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 16.03.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.103 of 2021

and

Crl.M.P.(MD)No.1254 of 2021

1.Aravind @ Aravinth Rajkumar
2.Gopalakrishnan

... Petitioners/Accused 2 & 4

Vs.

The State rep. By
Inspector of Police,
Economic Offences Wing - II,
Tirunelveli.
(Crime No.1 of 2020)

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records of the proceedings in Crl.M.P.No.76 of 2021 in Crime No.1 of 2020 on the file of the Special Judge, Special Court under TNPID Act Cases, Madurai, revise and to set aside the order dated 29.01.2021 passed by the said Special Court and consequently dismiss the said Crl.M.P.No.76 of 2021 on the file of aforesaid Court.

For Petitioners	: Mr.P.L.Narayanan
For Respondent	: Mr.S.Chandrasekar
	Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order passed in Crl.M.P.No.76 of 2021 dated 29.01.2021, on the file of the learned Special Judge, Special Court under TNPID Act Cases, Madurai.

2.The petitioners were granted anticipatory bail by this Court in Crl.O.P.(MD)No.9901 of 2020 on certain conditions. One such condition is to cooperate for the investigation. The petitioners failed to appear before the respondent for enquiry. The respondent has filed a petition in Crl.M.P.No.76 of 2021 before the learned Special Judge, Special Court under TNPID Act Cases, Madurai for cancellation of bail and the bail order was cancelled by the Special Court. Against which, the petitioners have filed this Revision Case.

3.On the side of the petitioners, it is stated that the first petitioner was directed to appear before the respondent police on 04.11.2020. But the first petitioner failed to appear before the respondent due to his illness. The summons for the appearance on

<https://hcservices.ecourts.gov.in/hcservices/>



04.12.2020 but the petitioner was tested positive for covid-19 and he was advised to be quarantined for 21 days and on 29.12.2020, the first petitioner learned that a summon for appearance on 26.12.2020 was affixed on his door steps.

4.The second petitioner's father died on 15.11.2020. Due to the rituals, the second petitioner was not able to appear before the Investigating Officer on 04.12.2020. The summon directing the second petitioner to appear on 22.12.2020 was not received by the second petitioner and the deliver boy had affixed his own signature and that only on 28.12.2020, the second petitioner received the summon. The petitioners are ready to cooperate with the respondent. Later the petitioners attended the enquiry on 12.01.2021 and their statements were recorded on 27.01.2021. The petitioners have settled the amount due for various investors as mentioned in their statement and that the amount received were only investments and not a deposit and prayed the order to be set aside.

5.On the side of the respondent, it is stated that totally 191 complaints are were filed against the petitioners. The amount involved is Rs.7,06,92,190.76/-. The petitioners have settled an amount of Rs.5,54,000/- only for seven persons. The summon was sent through Head constable for the appearance of the first petitioner on 04.11.2020. The first petitioner received the summon and did not appear on that date. Again another summon was sent to the first petitioner and only for that summon, a reply was received that the first petitioner was not in a position to appear due to covid 19 positive and a third summon was sent to the first petitioner for his personal appearance on 26.12.2020. Since the door was locked on that date, the summon was affixed on the door in the presence of the Village Administrative Officer. The first petitioner purposely failed to appear and failed to cooperate the investigation.

6.Similarly summon was sent to the second petitioner/A4 for his appearance on 04.12.2020. He sent a letter stating that his father died on 18.11.2020 and he will not appear on 04.12.200. Again the registered post was sent to the second petitioner/A4 for his appearance on 22.12.2020. The petitioners after receiving the registered post, did not make his appearance on that date. Since the condition imposed in the anticipatory bail was breached by the petitioners, the respondent has approached the Special Court and the Special Court has rightly cancelled the bail order. It is wrong to state that the petitioners voluntarily appeared before the respondent on 12.01.2021 and that their statements were recorded and prayed to dismiss the petition.

7.It is seen that summon to the first petitioner was served on 02.11.2020 for his appearance on 04.11.2020. The statement of the first petitioner is that he could not attend the enquiry, since he was affected by ill. No documents are filed to prove that the first



petitioner was ill at that time. The second summon for the appearance on 04.12.2020. It is stated that the third notice was not served on the first petitioner and that it was sent through police. Since the first petitioner was tested positive covid-19, he could not appear for the enquiry. It was pasted on the door of the first petitioner's house. The first petitioner failed appear before the respondent. It is stated that the first petitioner came to know about the affixing of the summon only on 29.12.2020 that is three days after the date of enquiry.

8.It is stated that the summon was served on the second petitioner for his appearance on 04.12.2020 and as his father died on 18.11.2020, he could not appear on 04.12.2020, due to the rituals and that the summon for the appearance on 22.12.2020 was received by the second petitioner only on 28.12.2020 and hence, he could not appear on that date. There was no possibility of performing any rituals after the 16th day of death.

9.It is the duty of the petitioners to cooperate the investigation. It is seen that no proof is filed on the side of the petitioners for their appearance before the respondent on 12.01.2021 and on 27.01.2021, the reasons stated for the non appearance of the petitioners are not satisfactory. The petitioners were enjoying the bail order. Even after the bail order was cancelled, the respondent has not taken any steps for the arrest of the petitioners. One more opportunity for the petitioners has to be given to prove their genuineness.

10.In the above circumstances, the order passed in Crl.M.P.No.76 of 2021 dated 29.01.2021, on the file of the learned Special Judge, Special Court under TNPID Act Cases, Madurai is set aside on condition that the petitioners shall appear before the respondent police for a period of one month daily at 10.00 a.m., from the date of receipt of copy of this order, failing which, this order automatically stands cancelled. The respondent is hereby directed to conduct the enquiry within that period.

11.With the above direction, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Mrn

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 Special Judge, Special Court under TNPID Act Cases, Madurai.

2.The Inspector of Police,
Economic Offences Wing - II,
Tirunelveli.

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

+1 CC to Mr.P.L.NARAYANAN, Advocate (SR-11761[F] dated 17/03/2021)

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VB (25.03.2021) 4P 5C