



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Original Jurisdiction)

Friday, the Twenty Second day of January Two Thousand and Twenty One
PRESENT

The Hon'ble Mrs. Justice R. THARANI

CRL MP(MD). No.5898 of 2020
in
CRL A(MD). No.574 of 2020

1. R.Yogalakshmanan
2 V.Prabhu ...Petitioners / Petitioners / Appellants

Vs

1 The Deputy Superintendent Of Police,
Thiruchuli Sub-Division, Virudhunagar District.
(Crime No.78/2019)

...Respondent No.1/Petitioner/1st Respondent

2 Thangapandiyan
...2nd Respondent/3rd Respondent/Defacto Complainant

Prayer in CRL MP(MD). No.5898 of 2020:-

Criminal Miscellaneous Petition filed under section 482 of Criminal Procedure Code, Praying this Court to recall the order cancelling the bail petitioner of the petitioners dt.1.9.2020 made in Crl.MP.No.1392 of 2020 in Crl.A.(MD).No.574 of 2019 passed by this Hon'ble Court.

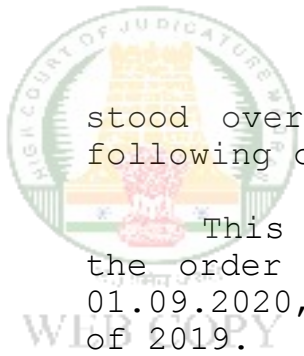
Prayer in CRL MP(MD). No.1392 of 2020:-

This Criminal Miscellaneous Petition filed under section 439(2) of Cr.P.C. Praying this Court, to cancel the bail granted in favour of the Appellants /A2 and A3 in Crl.A.(MD) NO.574 of 2019 dated 07/01/2020 by this Honourable Court.

Prayer in CRL A(MD). 574 of 2019 :

Criminal Appeal filed under Section 14-A(2) of SC/ST (POA) Act - against the order dated 20.11.2019 made in Crl.MP.No.1577 of 2019 by the Special Court for Exclusive trial of SC/ST cases Virudhunagar District at Srivilliputhur.

ORDER:- Criminal Miscellaneous Petition is coming on for orders on Thursday, the Tenth day of December Two Thousand and Twenty and upon perusing the petition and the affidavit filed in support thereof and the earlier Order of this Court and upon hearing the arguments of Mr.V.Angusamy, Advocate for the Petitioner and of Mr.S.Bharathi, Government Advocate(Criminal Side) On Behalf of the Respondent, and



stood over for consideration till this day, this Court made the following order:

This Criminal Miscellaneous Petition has been filed to recall the order cancelling the bail petition of the petitioners, dated 01.09.2020, made in Crl.M.P.(MD)No.1392 of 2020 in Crl.A.(MD)No.574 of 2019.

2. The case against the petitioners is that on 28.10.2019, at about 04.25 p.m., the petitioners and others attacked the defacto complainant with deadly weapons. A case in Crime No.78 of 2019 under Section 147, 148, 341, 294(b), 379, 307 and 506(ii) I.P.C and Section 3(1)(s), 3 (2) (va) of SC/ST (POA) Act, was registered against the petitioners and others. The petitioners filed a bail petition before the Special Court. Since the bail petition was dismissed, they approached this Court and obtained a bail order in Crl.A.(MD)No.574 of 2019, dated 07.01.2020. The respondent police filed a petition before this Court for cancellation of the bail in Crl.M.P.(MD)No.1392 of 2020 and the same was allowed by this Court on 01.09.2020. Against which, the petitioners herein have filed this criminal miscellaneous petition to recall the order dated 01.09.2020.

3. On the side of the petitioners, it is stated that this Court, in Crl.A.(MD)No.574 of 2019, dated 07.01.2020, has imposed a condition that the petitioners must reside in Madurai and report before the Inspector of Police, Tallakulam Police Station, daily at 10.30 a.m., and 05.00 p.m., until further orders. The Inspector of Police, Tallakulam, did not allow the second petitioner to sign before him, since in the ID cards of the second petitioner, his name has been mentioned as Elangovan. The Sub Inspector of Police refused to accept the explanation that he was wrongly remanded in the name of Prabhu. The second petitioner was present before the Tallakulam Police Station, Madurai, for three times, but, the counsel on record failed to mention this facts in the affidavit filed before this Court. This Court has not accepted the oral arguments of the counsel, since those points are not stated in the petition. The affidavit of one Mr.Prabhakaran, will prove that the petitioners were staying at his house from 12.01.2020 to 22.01.2020 and they were trying to sign at the Tallakulam Police Station.

4. On 10.01.2020, the petitioners were released from prison and they appeared before the Tallakulam Police Station on 12.01.2020 at about 10.00 a.m.. They came to know from the Tallakulam Police, that two FIR's were registered against them by Narikudi Police, Virudhunagar District, in Crime Nos.8 and 9 of 2020. With the apprehension that the petitioners would be arrested by the police, the petitioners filed an anticipatory bail application before the Principal and Sessions Judge, Srivilliputhur, in Cr.M.P.Nos.181 and 184 of 2020, dated 27.01.2020 and the same was allowed. Hence, the



petitioners prayed to recall the order of cancellation of their bail.

5. On the side of the respondent, it is stated that there was no discrepancy regarding the identify of the first petitioner and there is no allegation that police have not permitted the first petitioner to sign before them. The petitioners failed to reside at Madurai, they went to their native place and indulged in two more offences in Crime No.08 and 09 of 2020, registered by the Narikudi Police. Both the offences were committed on 11.01.2020, i.e., on the very next day of their release on bail.

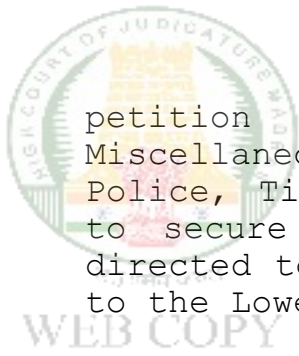
6. It is further stated that both the petitioners are having previous cases, including a murder case. The condition imposed by this Court is to stay at Madurai, but, the petitioners went to their native place and have indulged in an offence on 11.01.2020 and there they attacked the Deputy Superintendent of Police and the Block Development Officer and prayed the petition to be dismissed.

7. On the side of the petitioners, it is stated that the second petitioner has signed the bail bond only as Elangovan and not as Prabhu.

8. This Court called for copies of the records relating to the remand from the Sessions Court. In the note of arrest and in the remand order, the second petitioner has signed in English, wherein, the name of the second petitioner was mentioned as Prabhu. So the petitioner cannot claim that he is not aware that he was mentioned as Prabhu. The petitioner has filed the bail petition only in the name of Prabhu. Even in this petition, he has signed in both the names. Even if the police prevented the second petitioner from signing, it is the duty of the second petitioner to approach this Court for modification. Since the petitioner failed to do so, the discrepancy in the name can not be considered as a ground for allowing this petition.

9. There is no discrepancy regarding the name of the first petitioner. This Court in Crl.A.(MD)No.574 of 2019 has imposed a condition that the petitioner has to reside at Madurai. The petitioners have filed an affidavit stating that they stayed in Madurai at their friend's house from 12.01.2020 to 22.01.2020. The petitioners were released from the prison on 10.01.2020. It is alleged that they indulged in an offence on 11.01.2020, within the limits of Narikudi Police Station, virudhunagar District. Obviously the petitioners were not staying in Madurai from 10.01.2020 till 12.01.2020. They failed to sign before the Tallakulam Police on 11.01.2020. For violation of these two conditions, there is no explanation on the side of the petitioners. Hence, the petitioners are not entitled for any relief.

<https://hcservices.courts.gov.in/hcservices/> is no reason sufficient enough to entertain the



petition filed by the petitioner. Hence, this Criminal Miscellaneous Petition is dismissed. The Deputy Superintendent of Police, Tiruchuli Sub Division, Virudhunagar District, is directed to secure the accused and to take further action. Registry is directed to send a copy of this order to the respondent police and to the Lower Court.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Is

To

- 1) The Sessions Judge,
Special Court for Exclusive Trial of SC/ST cases,
Virudhunagar District at Srivilliputhur
- 2) The Principal Sessions Judge,
Srivilliputhur.
- 3) The Deputy Superintendent Of Police,
Thiruchuli Sub Division, Virudhunagar District.
- 4) The Inspector of Police, Tallakulam Police Station,
Madurai District
- 5) The Officer-in-Charge,
The District Prison, Virudhunagar
- 6) The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

Crl.M.P. (MD)No.5898 of 2020
in Crl.A. (MD)No.574 of 2020
22.01.2021

KK(01.02.2021) 4P 7C