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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 09.02.2021

Delivered On : 04.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.699 of 2020

Dr.S.Nadiya Hameed Farooq

.. Petitioner /Petitioner/
Defacto complainant

Vs.

1.P.Hameed Farooq
2.Dr.S.Peer Mohammed
3.Dr.Saleema

..1 to 3 Respondents/
Respondents/Accused Nos.1 to 3

4.The State rep. By
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District,
In Crime No.24 of 2020.

.. Respondents

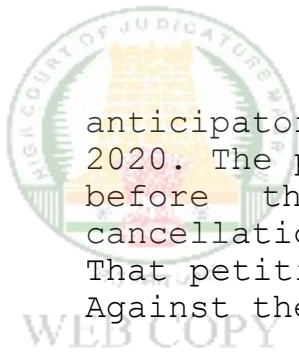
Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records relating to the case in CrI.M.P.No.3613 of 2020 on the file of the Principal Sessions Judge, Kanyakumari District at Nagercoil, and to set aside the order dated 04.11.2020.

For Petitioner : Mr.M.Suri
For Respondents 1 to 3 : Mr.G.Anto Prince
For 4th Respondent : Mrs.S.Bharathi
Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.475 of 2020 in C.C.No.210 of 2019 dated 22.10.2020, on the file of the learned Judicial Magistrate No.II, Sivakasi.

2.The case of the petitioner is that the respondents 1 to 3 retained 205 sovereigns of gold that belongs to the petitioner and refused to return the same. A case in Crime No.24 of 2020 was registered by the respondent police. The respondents 1 to 3 got



anticipatory bail vide order dated 30.06.2020 in Crl.M.P.No.2384 of 2020. The petitioner has filed a petition in Crl.M.P.No.3613 of 2020 before the learned Principal Sessions Judge, Nagercoil for cancellation of anticipatory bail granted to the respondents 1 to 3. That petition was dismissed by the learned Principal Sessions Judge. Against the same, the petitioner preferred this revision case.

3.On the side of the petitioner, it is stated that the accused did not comply the condition imposed by the Court in the bail order. They disobeyed the conditions. They should have appeared before the fourth respondent daily at 10.00 a.m., but failed to comply the order. The learned Sessions Judge relaxed the condition, which is illegal. The learned Sessions Judge relaxed the condition on the ground that the respondents 1 to 3 are doctors and they are engaged in covid duty and there is no question of disobeying the Court order. All are equal before law. The second respondent is only a Veterinary doctor and he has no connection with covid duty.

4.It is stated that the respondents came to Nagercoil and attend the Court on 07.08.2020, which is clearly mentioned in the order in Crl.M.P.No.3253 of 2020. The respondents 1 to 3 have not complied the condition even for a single day and prayed the petition to be allowed.

5.On the side of the respondents 1 to 3, it is stated that the first respondent is the husband of the petitioner and the second respondent is the father in law and the third respondent is the mother in law. The respondents 2 and 3 are aged persons. Since lockdown was announced, the respondents 1 to 3 could not comply the conditions. Subsequently, they were attending covid duty and hence, the learned Sessions Judge has relaxed the condition. Since the condition was relaxed, Since the condition was relaxed there is no necessary to comply the condition imposed earlier. Only to harass the respondents 1 to 3, the petitioner has filed this petition and prayed the petition to be dismissed.

6.On the side of the 4th respondent, it is stated that the present petition has been filed against the dismissal of the cancellation of the bail petition. However the conditions were already relaxed in Crl.M.P.No.3253 of 2020. Hence, nothing survives for adjudication in this petition and prayed the petition to be dismissed.

7.It is seen that there is a matrimonial dispute between the defacto complainant and the respondents 1 to 3. The respondents 1 to 3 got anticipatory bail. Admittedly they have not complied the condition imposed in the order and they have not signed before the fourth respondent as per the condition imposed by the Sessions Court. The order was passed on 30.06.2020. The same Court has



relaxed the condition in Crl.M.P.No.3253 of 2020 on 24.08.2020. The statement of the respondents 1 to 3 is that due to covid duty and due to lock down, the respondents 1 to 3 were not in a position to comply the condition. The contention of the petitioner is that since the respondents 1 to 3 did not comply the condition, the anticipatory bail is to be cancelled.

8.The conditions were imposed by the Court only with a view to make sure the presence of the accused during the trial. The respondents 1 to 3 are doctors and they were attending covid duty at the time of lockdown.

9.Considering the covid situation, the Sessions Court has relaxed the condition. Since the condition was already relaxed by the trial Court, the petition for cancellation of the anticipatory bail is groundless.

10.In the above circumstances, there is nothing sufficient enough to interfere in the order passed in Cr.M.P.No.475 of 2020 in C.C.No.210 of 2019 dated 22.10.2020, on the file of the learned Judicial Magistrate No.II, Sivakasi and the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

To

1.The Principal Sessions Judge, Kanyakumari District.

2.The Judicial Magistrate No.II,
Sivakasi.

3.The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District,

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



+1 CC to M/s.M.SURI, Advocate (SR-8799[F] dated 04/03/2021)

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-8857[F] dated 04/03/2021)

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Crl. R.C. (MD) No. 699 of 2020
04.03.2021

smv (CO)

KK (12.03.2021) 4P 7C