



CrI.O.P.No.3842 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.3842 of 2022

Senthil Kumar @ Kattapomman

...Petitioner

-Vs-

State rep. by
The Station House Officer,
Town Police Station,
Karaikkal.
Crime No.144 of 2021

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, pleaded to set aside the order passed in CrI.M.P.No.1043 of 2021 dated 20.12.2021 passed by the learned Additional District Munsif cum Judicial Magistrate II, Karaikkal.

For Petitioner
For Respondent

: M/s.P.J.Anitha
: Mr.V.Balamurugane
Public Prosecutor (Pondy)

ORDER

This Criminal Original petition has been filed to set aside the order passed by the learned Additional District Munsif cum Judicial Magistrate



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II, Karaikkal in Crl.M.P.No.1043 of 2021 dated 20.12.2021 by cancelling the bail granted to the petitioner by this Court in Crl.O.P.No.16606 of 2021 dated 09.09.2021.

2. The petitioner was arrested and remanded to judicial custody on 05.08.2021 in pursuance to the registration of the FIR in Crime No.144 of 2021 for the offences under Sections 419, 468, 471 of IPC r/w 34 of IPC and section 420 r/w 511 of IPC. Thereafter, the petitioner had filed bail petition before this Court in Crl.O.P.No.16606 of 2021 and this Court had granted bail vide order dated 09.09.2021 with the following conditions.

“ Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, of whom, one should be blood related surety, each for a like sum to the satisfaction of the learned Additional District Munsif cum Judicial Magistrate-II, Karaika and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



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[b] the petitioner is directed to appear before the respondent police daily morning at 10.30.am until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond either during investigation or trial;

*[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;*

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor (Pondicherry) for the respondent police.

4. This Court imposed the condition that the petitioner is directed to appear before the respondent police daily morning at 10.30a.m until further orders. When the petitioner was complying the said conditions



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granted by this Court, the respondent police filed a petition for cancellation of bail before the Court below on the ground that the petitioner had failed to comply the conditions imposed by this Court and he has been absconding. Thereby, he had violated the orders passed by this Court. The learned Magistrate allowed the said petition and cancelled the bail granted by this Court on the ground that the petitioner had involved in another case in Crime No.24 of 2021 registered for the offences under sections 420 r/w 34 of IPC on the file of the respondent police and also stated that the petitioner is an habitual offender and he was involved in so many cases.

5. It is seen that this Court, while granting bail imposed conditions that if the accused thereafter absconds, a fresh FIR can be registered under Section 229(A) of IPC instead of that, the learned Magistrate cancelled the bail granted by this Court. Therefore, the learned Magistrate has no jurisdiction to cancel the bail granted by this Court. However, the respondent can very well register another FIR under Section 229(A) of IPC as against the petitioner in the event of the order passed by this Court is not complied by the petitioner. Hence, the order passed in Crl.M.P.No.1043 of 2021 dated 20.12.2021 by the learned



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Additional District Munsif cum Judicial Magistrate II, Karaikkal is liable to be set aside.

6. Accordingly, this Criminal Original petition stands allowed.

However, the respondent is at liberty to register a fresh case as against the petitioner for not complying the conditions imposed by this Court. Further, the respondent is at liberty to approach this Court for cancellation of bail.

21.09.2022

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
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To

1. The learned Additional District
Munsif cum Judicial Magistrate II, Karaikkal.
2. The Station House Officer,
Town Police Station,
Karaikkal.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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