



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

Tuesday, the Twenty Sixth day of April Two Thousand and Twenty Two

PRESENT

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The Hon`ble Mr.Justice PARESH UPADHYAY

CRL OP(MD)Nos.14139 and 2440 of 2021

Crl.O.P(MD)No.14139 of 2021:

1.C.Balraj
2.A.Arivumani
3.I.Babu
4.T.Elangoven

... Petitioners 1 to 4 / Accused 3,5,6 & 7

Vs

State Rep. by
The Inspector of Police,
City Crime Branch,
Trichy City, Trichy.
Crime No.17 of 2021

... Respondent/ Complainant

For Petitioners : Mr.S.Ramsundarviyayraj, Advocate

For Respondent : Mr.R.SHANMUGASUNDARAM, Advocate General
assisted by Mr.S.RAVI,
Additional Public Prosecutor &
Mr.HASAN MOHAMED JINNAH,
State Public Prosecutor

For Committe : Mr.ARULVADIVEL @ SEKAR, Advocate

PETITION FOR BAIL Under Section 439 of CrPC.

Prayer:

For Bail in Crime No.17 of 2021 on the file of the respondent.

Crl.O.P(MD)No.2440 of 2021:

Govindaraj

.... Petitioner/ Defacto Complainant

Vs

1.The State represented by
The Inspector of Police,
K.Pudur Police Station, Madurai.
[Crime No.25 of 2021]

... 1st Respondent/ Complainant

2.Ramesh Kumar

...2nd Respondent/ Accused A2



For Petitioner : M/S.S.MARSHALL, Advocate

For Respondent 1 : Mr.R.SHANMUGASUNDARAM, Advocate General
assisted by
Mr.HASAN MOHAMED JINNAH,
State Public Prosecutor

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PETITION FOR CANCELLATION OF BAIL Under Section 439(2) of CrPC.

Prayer: For cancellation of bail granted by the learned Principal Sessions Judge, Madurai in Cr.M.P.No.583 of 2021, dated 05.02.2021.

COMMON ORDER : The Court made the following order :-

1. These two petitions were disposed of by this Court (Coram: Hon'ble Thiru.Justice. B.Pugalendhi) vide order dated 01.11.2021.

2.1 Crl.OP(MD)No.14139 of 2021 was filed by some of the accused of Crime No.17 of 2021 on the file of the City Crime Branch, Trichy City, which was registered for the offence under Sections 417, 420, 294(b), 506(i) & 120(b) IPC. In connection with the said case, they were arrested on 02.09.2021, Sessions Court denied bail and therefore they had moved this Court under Section 439 of Cr.P.C., seeking bail.

2.2 Crl.OP(MD)No. 2440 of 2021 was filed by the defacto complainant to cancel the bail granted to one of the accused by the Sessions Court. It was arising from Crime No.25 of 2021 on the file of K.Pudur Police Station, Madurai.

2.3 Thus, the accused and the de-facto complainant both approached this Court for grant of bail / cancellation of bail, respectively.

2.4 Those applications came to be decided by this Court (CORAM : Hon'ble Thiru Justice B.Pugalendhi) vide common order dated 01.11.2021. The application for cancellation of bail was dismissed and the application seeking bail was allowed. The exercise of power under Section 439 of Cr.P.C. stood exhausted at that stage.

2.5 While recording the above order, though the exercise of power under Section 439 of Cr.P.C. stood exhausted at that stage, this Court further proceeded to give following directions:-

"9.In view of the aforesaid submission and the affidavits being filed by the accused, this Court is inclined to pass the following order:

1) A Committee is formed under the chairmanship of Hon'ble Thiru Justice S.RAJESHWARAN, retired Judge of this Court.



2) The petitioners, as agreed, shall deposit a sum of Rs.50,00,000/- to the credit of Crl.O.P(MD)NO.14139 of 2021, before the Registry of this Court, to meet the remuneration charges and other incidental charges of the Committee.

3) The Chairman of the Committee shall appoint any person of his choice to assist him, apart from required secretarial staff for assistance.

4) A dedicated mobile number and an e-mail ID shall be opened exclusively for the Committee.

5) A savings bank account shall be opened in the name of the Committee at any Nationalized Bank [hereinafter referred to as 'Committee account'] and the Chairman of the Committee is authorised to manage the account. Once such an account is opened, the sum of Rs.50,00,000/- deposited by the petitioners to the credit of the said Criminal Original Petition shall be transferred by the Registry to the Committee account, upon a letter / memo being given by the Committee. The Committee shall utilize this amount to meet their remuneration and other incidental expenses including boarding and lodging. The remuneration to the Chairman is fixed as Rs.2,00,000/- (Rupees Two Lakh) per month and the remuneration to the persons assisting the chairman shall be Rs.75,000/- in toto. The balance amount shall be utilised for settling the dues to the investors.

Petitioners:

6) The petitioners are directed to disclose the details of all the subscribers / customers / depositors, etc. and the details of the pending cases against them to the Committee ;

7) The petitioners are also directed to furnish the details of the properties, assets, bank balance, deposits, etc., standing in their names and in the names of their family members and other accused to the Committee.

8) The petitioners / accused, more particularly, the accused nos.1 & 2 are to effect paper publication in two leading Tamil and one English Daily about the proceedings before the Committee. The paper publication has to be vetted by the Committee.

9) The accused are directed to appear before the Committee once in a month, ie., in the first week of every month.

Investigating Agency:

10) The investigating agency is directed to furnish the list of subscribers / customers / depositors; property details and bank accounts of the accused, their family members and staff, along with other particulars collected by them including the cases registered against the accused

<https://hcservices.courts.tn.nic.in/hcservices/ports.html>



11) The investigating agency is also directed to keep on updating the Committee about the investigation and subscribers list, periodically.

12) The investigating officer is directed to appear before the Committee as and when the Committee so directs. If the investigating officer is not in a position to appear before the Committee on any such date, a responsible officer having knowledge on the case be deputed to assist the Committee.

Defacto complainant:

13) The defacto complainant is also at liberty to submit the details of the subscribers / customers / depositors as well as the properties and bank balances of the accused including the cases pending against the accused before the Committee.

General Directions:

14) The Committee, after collecting the particulars including all the cases registered against the accused irrespective of their stage, from all quarters, is to identify the subscribers / customers / depositors and after due verification of their identification and genuineness of the documents, derive the amount of disbursement to each subscribers / customers / depositors.

15) The Committee is also permitted to identify the properties standing in the name of the accused-company, the petitioners, their family members and staff, through such modes as they deem fit.

16) The amount of disbursement to each subscriber / customer / depositor, as arrived by the Committee, shall be settled by the accused nos.1 & 2.

17) The Committee is permitted to sell the properties standing in the name of the accused company, the petitioners, their family members and staff and other accused, in the open market either by private negotiation or public tender for more consideration, as they deem fit, which amount shall be utilized to settle the subscribers / customers / depositors.

18) The jurisdictional District Revenue Officers and Superintendents of Police / Commissioners of Police concerned are directed to provide all necessary assistance to the Committee for visiting the properties of the accused and in the course of their sale.

19) Since the District Revenue Officer is the competent authority and custodian of the properties attached as per the TNPID Act, the accused shall give authorisation to the jurisdictional District Revenue Officers to execute the sale of the properties on their behalf. The Sub-Registrars concerned shall register the documents submitted by the District Revenue Officers



regarding the properties of the above crime numbers, without raising any queries. The District Registrars are directed to issue necessary instructions in this regard to the SubRegistrars concerned.

20) The Registry of Court is directed to release the funds lying before it in the credit of Crl.O.P(MD)No.14139 of 2021, as and when they receive any letter / memo / communication from the Committee in such regard, within a period of three days from the date of receipt of such letter / memo / communication.

21) The Committee is expected to complete the entire proceedings as expeditiously as possible, preferably, within a period of six months from the date of formation."

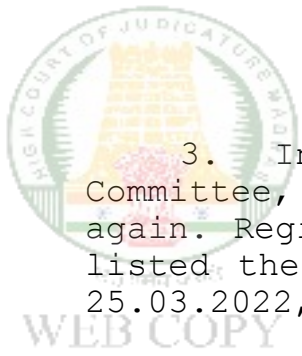
2.6 The said Committee submitted an Interim Report dated 08 February 2022, the relevant part thereof reads as under:-

"18. Considering the complexity involved in this shocking sordid affair, it is not possible to leave the matter to the general investigating team and unless a special team is formed for this purpose alone, its very difficult to expose the fraudulent people, deal with them with iron hand and to redress the grievances of innumerable victims / depositors.

19. It is my considered opinion that this committee should be strengthened by a team of experts and this Court shall monitor the investigation through this committee to avoid any slackness and to deal with accused persons and their properties obtained illegally. Considering the amount involved, the innumerable people suffering at the hands of the accused persons and their agents and the properties to be identified and sold to pay the deprived persons, it is very much necessary that this Court should monitor, control and supervise through this committee to render speedy justice, to the affected persons.

20. **In such circumstances, I am seeking necessary Orders from the High Court to modify the order dated 01.11.2021 passed in Crl.O.P.(MD) Nos. 14139 & 2440 of 2021, modifying the earlier Order dated 01.11.2021 to include a direction of directing the Director General of Police, Tamil Nadu to form a special team and place the team at our disposal, to exclusively pursue the matter of addressing the grievances of the ingenuous depositors who have been taken for a ride by the accused persons. I am also seeking further clarifications from the High Court for follow-up action in this matter."**

(emphasis supplied)



3. In view of the above modification as requested by the said Committee, it was necessary to notify those disposed of matters again. Registry has, under the orders of Hon'ble the Chief Justice, listed these matters before this Bench. The matters were heard on 25.03.2022, 01.04.2022 and 18.04.2022.

4.1 Learned advocate for the accused, who was granted bail by this Court vide above referred order dated 01.11.2021 has made serious grievance that, in spite of best cooperation being extended by the accused / petitioner(s) to the Committee, in view of number of subsequent FIRs being filed / sponsored through public notice, the petitioner(s) is / are detained in one case after another.

4.2 So far detention of petitioner(s) in subsequent FIRs is concerned, that can not be the subject matter of this proceedings and therefore no opinion is expressed in that regard.

5. Mr.R.Shunmugasundaram, learned Advocate General had appeared with Mr.Hasan Mohammed Jinnah, learned Public Prosecutor on 01.04.2022 and 18.04.2022. Attention of the Court was invited to the status report filed on behalf of the State dated 17.04.2022, which was taken on record.

6. It is noted that, Mr.Arulvadivel @ Sekar, learned advocate has also assisted the Court on behalf of 'The Committee of Hon'ble Mr.Justice (Retired) S.Rajeswaran', which was appointed by this Court vide order dated 01.11.2021, modification in which is prayed by the said Committee.

7. Learned Advocate General had, on 18.04.2022, on the basis of the status report referred above, so also on the basis of the instructions of the concerned officers who were present in the Court, submitted that, it is the Economic Offences Wing of the Police Force of the State of Tamil Nadu, which is competent and also equipped to investigate such type of offences and deal with it in accordance with law.

8. With a view to see that, the transition of the investigation of the offences in question (at whatever stage it is) from the Committee appointed by this Court to the State Agency (EOW) sails smooth, it was inquired from the State, if any officer can be named in that regard. To this, learned Advocate General had, by referring to the report dated 17.04.2022 stated that, Mr.V.Ashok Kumar, Additional Superintendent of Police, Economic Offences Wing of the State of Tamil Nadu can be assigned this task.

9. Before the final order is passed in this regard (which is being done today), it was thought necessary to work out the modalities of transition and handing over of the material gathered by the State Agency (EOW) and other procedural aspects like dealing with the



bank account which was stated to had been opened pursuant to the directions of this Court. To facilitate this transition time was granted to the State and the officers of the Committee. It is informed to the Court today by the learned advocates for the respective parties that, appropriate coordination is done between the Committee and the concerned State Authorities and there is no difficulty in handing over the material and / or any other procedural impediment.

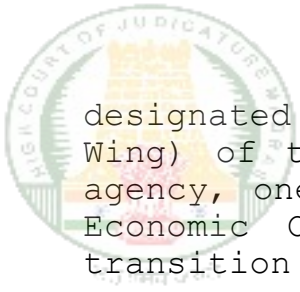
10. Having heard learned Advocate General for the State (on earlier dates), learned State Public Prosecutor and other learned advocates for the respective parties so also learned advocate for the Committee this Court finds that, on 01.11.2021, with the grant of bail and rejection of application for cancellation of bail, the exercise of powers under Section 439 of Cr.P.C. stood exhausted and it was neither necessary nor even competent for this Court to conceive constitution of any Committee for whatever good purpose it was. Reference in this regard is to be made to the decision of the Supreme Court of India in the case of *State Rep. by Inspector of Police v M.Murugesan and another reported in (2020) 15 SCC 251*. Since the very constitution of the Committee itself was beyond the competence of this Court while exercising powers under Section 439 of Cr.P.C, the extension of time and / or expansion of its jurisdiction can not be / need not be granted. Keeping this in view, appropriate order needs to be passed, however judicial discipline demands that, when this Court requested for the services of a retired Hon'ble Judge of this Court, whatever is done by the said Committee so far, can not be undone nor the action taken by it or on its behalf or any expenses incurred by it can be questioned. The efforts put in by the Committee up till now, at the request of this Court is taken note of with due appreciation.

11. In view of above, the following order is passed:-

11.1 The order passed by this Court dated 01.11.2021 is modified to the extent that, except grant of bail to the accused and rejection of application for cancellation of bail at the instance of the defacto complainant, no further direction can be given in exercise of powers under Section 439 of Cr.P.C.

11.2 All further directions contained in the said order (dated 01.11.2021), including appointing 'The Committee of Hon'ble Mr.Justice (Retired) S.Rajeswaran' and regulating the affairs thereof are recalled / deleted, with the further clarification that, whatever actions are taken by the said Committee up till now shall not be treated to be without authority of law and further that, the expenses incurred and paid by and on behalf of the said Committee, till date, will not be questioned.

11.3 The material gathered by the Committee up till now shall be transmitted to the State Authorities. The State has already



designated Additional Director General of Police (Economic Offences Wing) of the State of Tamil Nadu for this purpose. From the said agency, one Mr. V.Ashok Kumar, Additional Superintendent of Police, Economic Offences Wing, is also designated for the purpose of transition of the material from the Committee to the State Agency.

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11.4 The amount lying at the credit of the above referred Committee, in the Bank Account, shall be transferred to the State and it shall be dealt with by it in accordance with law.

11.5 The order of this Court dated 01.11.2021 is modified in above terms.

sd/-

26/04/2022

/ TRUE COPY /

/ /2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDGE,
TNPID COURT, MADURAI.
- 2 THE PRINCIPAL SESSIONS JUDGE, MADURAI.
3. THE JUDICIAL MAGISTRATE NO.I, TRICHY.
4. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
5. THE INSPECTOR OF POLICE,
ECONOMIC OFFENCE WING,
MADURAI DISTRICT.
6. THE INSPECTOR OF POLICE,
CITY CRIME BRANCH,
TRICHY CITY, TRICHY.
7. THE INSPECTOR OF POLICE,
K.PUDUR POLICE STATION, MADURAI.
8. THE SUPERINTENDENT, CENTRAL PRISON, THIRUCHIRAPPALLI.
9. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

- 1 THE HON'BLE THIRU JUSTICE S. RAJESHWARAN,
RETIRED JUDGE (COMMITTEE)

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2 THE REGISTRAR(JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

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- 1.THE DISTRICT REVENUE OFFICER,MADURAI.
- 2.THE SUPERINTENDENT OF POLICE,MADURAI.
- 3.THE COMMISSIONER OF POLICE, MADURAI.
- 4.THE DISTRICT REGISTRAR,MADURAI NORTH.
**(with a request to communicate this order
to the Sub-Registrars under their jurisdiction, as well)**
- 5.THE DISTRICT REGISTRAR,MADURAI SOUTH.
**(with a request to communicate this order
to the Sub-Registrars under their jurisdiction, as well)**
- 6.THE DISTRICT REVENUE OFFICER, TIRUCHY.
- 7.THE SUPERINTENDENT OF POLICE,TIRUCHY.
- 8.THE COMMISSIONER OF POLICE, TIRUCHY.
- 9.THE DISTRICT REGISTRAR,TIRUCHY.
**(with a request to communicate this order
to the Sub-Registrars under their jurisdiction, as well)**
- 10.V.ASHOK KUMAR,
Additional Superintendent of Police,
Economic Offences Wing,
Chennai.

+1 CC to Mr.S.RAMSUNDARVIJAYRAJ, Advocate, SR.No.3883(I) Date :
27/04/2022

ORDER IN
CRL OP (MD) Nos.14139 and
2440 of 2021
Date :26/04/2022

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USK/PN/SAR-IV/27.04.2022/9P/23C