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1 of 6

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

**Crl.O.P.Nos.5289,5290,5291,5292, 5294,5295,5297,5298,5299,5301,
5302, 5303, 5308,5309,5310,5312,5315,5319,5323 and 5404 of 2023**

and

**Crl.MP.Nos.3329, 3330,3331,3332,3333,3334, 3335,3336, 3337,
3338,3339,3340,3341,3343,3344,3345,3347,3348,3349 and 3391 of 2023**

Crl.OP.No.5289 of 2023

Dev Prabhu (M/A-44)

..Petitioner/Accused

.Vs.

1.State rep.by

The Inspector of Police
City Crime Branch Police Station
Coimbatore City.

..Respondent/Complainant

2.Mrs.Darathi (F/A-29)

D/o.Innasi Muthu

..Respondent/Victim

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and to set aside the order passed in Crl.MP.No.10339 of 2022 by the learned Judicial Magistrate No.7 of Coimbatore dated 14.11.2022.

For Petitioner : Mr.G.Anto Prince
(All Crl.OPs)

For Respondents : Mr.A.Gopinath
(All Crl.OPs) Government Advocate (Crl.side)
for R1



ORDER

The subject matter of challenge in all these criminal original petitions pertains to the individual orders passed by the Court below based on the applications filed by the victims, permitting them to withdraw proportionate amount out of the amount deposited by the petitioner in Crime No.41 of 2021.

2.Heard Mr.G.Anto, learned counsel for the petitioner and Mr.A.Gopinath, learned Government (Crl.side), for R1.

3.It is seen from records that the petitioner filed an anticipatory bail petition in Crl.OP.No.19815 of 2021 and this Court considering the facts and circumstances of the case granted anticipatory bail to the petitioner subject to certain conditions. The relevant condition that is pertinent to this case is extracted hereunder:

(a) the petitioner shall deposit a sum of Rs.50,00,000/- [Rupees Fifty Lakhs only] to the credit of the Crime No.41 of 2021 within a period of six weeks from the date of receipt of a copy of this order. Upon such deposit the said amount may be disbursed proportionately in favour of the de facto complainant and other victims under due acknowledgment.

4.The petitioner filed Crl.MP.No.14635 of 2022 seeking for clarification of the earlier order passed on 02.11.2021 and the said petition was disposed of by an order dated 22.9.2022 in the following terms:

3.Considering the submission made by the learned counsel appearing for the petitioner, this court clarifies the order to the extent that it is made clear that any payment made to the de facto



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complainant and other victims, is subject to the result of the criminal case and the Trial Court is directed to obtain appropriate undertaking from the defacto complainant and other person to whom amount disbursed that in the event of the petitioner succeeding in the trial, the defacto complainant and other victims would refund the amount received from the petitioner.

5.The learned counsel for the petitioner submitted that the Trial commenced before the Court below and PW.1 and PW.2 were also examined on the side of the prosecution and their version went completely against the very case of the prosecution. In view of the same, it was contended that the so called victims should not be permitted to withdraw the amount that was deposited by the petitioner pursuant to the direction issued by this Court.

6.In the considered view of this Court, the order passed by the Court below in the applications filed by the victims, permitting them to withdraw the proportionate amount out of the deposit made by the petitioner, cannot be faulted since these orders were in compliance of the order passed in the anticipatory bail petition and the clarification petition filed by the petitioner. If according to the petitioner, the evidence of PW.1 and PW.2 has a bearing and hence, the victims should not be permitted to withdraw the amount, the petitioner should file petition seeking for a clarification in CrI.OP.No.19815 of 2021 and in CrI.MP.No.14635 of 2022. Without getting such a clarification, the order passed by the Court below cannot be faulted.



7.In the light of the above discussion, this Court does not find any ground to interfere with the orders passed by the Court below. If at all the petitioner seeks for any clarification, it can only be by way of filing a clarification petition in CrI.OP.No.19815 of 2021. Except giving this liberty to the petitioner, no further orders can be passed in these criminal original petitions.

8.In the result, all these criminal original petitions are disposed of in the above terms. Consequently, all the connected miscellaneous petitions are closed.

12.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

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5 of 6



To

1. The Inspector of Police
City Crime Branch Police Station
Coimbatore City.
2. Judicial Magistrate No.7 of Coimbatore.
3. The Public Prosecutor
High Court, Madras.



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6 of 6

N. ANAND VENKATESH,, J.

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