



Crl.R.C. No.1042 of 2023

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DATED : 24.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

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Rayappan

...Petitioner

Vs.

1. State Rep. by
The Inspector of Police
District Crime Branch
Tiruppur District
(Cr. No.11/2013)

2. M. Palanisamy

3. Rajkumar

... Respondents

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. against judgment dated 15.09.2022 passed Crl.A. No.67 of 2022 on the file of the Principal Sessions Court, Tiruppur, confirming the order dated 07.10.2021 passed in Crl. M.P. No.1714/2021 in CC No.359/2021 on the file of the Judicial Magistrate Court No.II, Tiruppur.



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For Petitioner : Mr.N. Nithianandam
For R1 : Mr.J. Subbiah, GA (Crl Side)
For R2 : No appearance
For R3 : Mr. K.S. Karthik Raja

ORDER

Challenging the orders dated 15.09.2022 passed by the Principal Sessions Court, Tiruppur, in Crl.A. No.67/2022, confirming the order dated 07.10.2021 passed in Crl. M.P. No.1714/2021 in CC No.359/2021 on the file of the Judicial Magistrate Court No.II, Tiruppur., the present Criminal Revision Petition is filed.

2. The revision petitioner is the petitioner in Crl.M.P.No.1714/2021 on the file of the Judicial Magistrate No.II, Tiruppur. He filed the said application for return of his original document which was deposited in the court as security for securing the presence of the accused M.Palanisamy, as per the orders of this Court dated 11.11.2013 in Crl.O.P. Nos 22497 & 22498 of 2013. The learned Judicial Magistrate II, Tiruppur, vide his order dated 07.10.2021,



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dismissed the petition for return of the original document and aggrieved over the same the present revision petitioner filed a Criminal Appeal in Crl.A. No.67/2022 before the Principal Sessions Judge, Tiruppur. The learned Principal Sessions Judge, Tiruppur, dismissed the appeal filed by the present revision petitioner, vide his orders dated 15.09.2022, by observing thus:

12) On being convinced with the petitioner's counsel submission before the Hon'ble High Court, the anticipatory bail was allowed with a direction that the appellant shall give an undertaking affidavit before the trial court along with his original title deed that the title deed should be retained before the trial court till disposal of the case. Therefore, having given an undertaking before the Hon'ble High Court and submitted an affidavit of undertaking before the trial court pursuant to the orders by depositing his title deed, the same cannot be now taken back, unless, the conditions imposed in Crl.O.P. Nos.22497/2013 and 22498/2013, by order dated 11.11.2013 is modified by the Hon'ble High Court. Therefore, this court finds that the petitioner has not made out a case to allow his appeal and the trial court's order requires no interference in the appeal



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and the appeal is liable to be dismissed by confirming the trial court judgment. Hence, the point is answered accordingly. However, keeping in mind the pendency of the case for more than 8 years in precognizance stage, the Judicial Magistrate No.II, Tiruppur may expedite the process of trial and may dispose the same at the earliest within a period of 3 months.

3. Heard Mr.N. Nithianandam, learned counsel for the petitioner and Mr.J. Subbiah, learned Government Advocate (Crl Side) and Mr.K.S. Karthik Raja, learned counsel for the third respondent.

4. Mr.N. Nithianandam, learned counsel for the petitioner contended that the present petitioner is in need of the original document for conducting his daughter's marriage and also to meet out his medical expenses. He also prayed for discharging him as a surety.

5. Per contra, Mr.J. Subbiah, learned Government Advocate (Crl. Side) contended that a single judge of this court in Crl.O.P.



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Nos.22497 & 22498 of 2013 had directed the present petitioner to deposit his title deed in respect of Survey No.366/1 of Avinasi Town Panchayat and therefore unless the said condition is modified by the said court, the present petitioner cannot seek for discharge of surety under Section 444 Cr.P.C. He therefore, prayed for dismissal of the present petition.

6. Section 444 Cr.P.C., provides for discharge of the surety on the application made by the surety before the Judicial Magistrate and on receipt of the said application, either on appearance of the accused persons on his voluntary surrender or on issuance of warrant, the bond of the surety can be discharged either wholly or any part and the accused persons can be insisted to provide sufficient surety in the place of the surety discharged. In the event the accused persons' failure to provide sufficient surety, he can be committed to prison. In the instant case, it is not known whether the present petitioner stood as a surety or merely deposited his title deeds as per the directions of this court. However, a single judge of this court in Crl.O.P. Nos 22497 & 22498 of 2013 had



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granted Anticipatory Bail to one Lakshmanan and M. Palanisamy on the following conditions:

(1) The petitioners shall, within 15 days from the date of receipt of copy of the order, appear before the learned Judicial Magistrate, Avinashi and each of them execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the said Magistrate or to the satisfaction of the investigating officer.

(2) The petitioner in Crl.O.P. No.22498 of 2013/A2 is directed;-

(a) to deposit the original title deeds belonging to his brother-in-law one Rayappan in S.F. No.366/1 at Avinashi Town Panchayat. Rayappan is directed to file an affidavit before the Magistrate stating that he will not alienate or encumber the property and

(b) to deposit the original title deeds of house property belonging to him in D. No.2/255-A. S.F. No.294, at Kanakkampalayam Village, Tiruppur Taluk and

(c) to deposit the original title deeds of any other property which is referred by the defacto complainant, if it is



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available without any encumbrance and to file an affidavit to that effect before the Matistrate concerned;

(3) For the purpose of interrogation, the petitioners/A4 and A2 shall report before the respondent police dailt at 10.30 A.M. for two weeks and thereafter as and when required, in the event of arrest, the respondent police shall release them on bail; and

(4) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(5) The respondent is directed to file the charge sheet as expeditiously as possible.

The condition 2(a) is very important as the single judge had directed the present petitioner, who is the brother-in-law of the accused, to deposit the original title deeds in respect of his land in Survey No.366/1 of Avinashi Town Panchayat and he was also directed to file an affidavit before the Magistrate that he will not alienate or encumber the said property. Accordingly the accused executed a bond and the present



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revision petitioner also deposited his title deeds in respect of the land in Survey No.366/1 in Avinashi Town Panchayat. Neither the present revision petitioner nor the accused filed a petition seeking to modify the conditions passed by the learned single judge in Crl.O.P. Nos 22497 & 22498 of 2013. They have not also challenged the said orders by way of filing special leave petition before the Supreme Court. On the contrary, the present petitioner, namely Rayappan, had filed a petition in Crl.M.P.No.1714/2021 seeking return of the original title deeds deposited by him in the court. As rightly observed by the first appellate court, unless the conditions laid down in Crl.O.P. Nos. 22497 & 22498 of 2013 are modified, the original title deeds cannot be returned to the present petitioner especially when this court was specific about which title deed of the property has to be deposited by the surety. In the circumstances, the orders passed by the first appellate court cannot be found fault with and accordingly the present Criminal Revision Petition is dismissed.



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7. In the result,

- i. the Criminal Revision Petition is dismissed. No costs.
- ii. The judgment dated 15.09.2022 passed in Crl.A. No.67 of 2022 on the file of the Principal Sessions Court, Tiruppur, and the order dated 07.10.2021 passed in Crl. M.P. No.1714/2021 in CC No.359/2021 on the file of the Judicial Magistrate Court No.II, Tiruppur, are confirmed.

24.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
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To

1. The Principal Sessions Judge, Tiruppur.
2. The Judicial Magistrate No.II, Tiruppur.

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