



WEB COPY



CrI.O.P.No.12886 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

CrI.O.P.No.12886 of 2023

M.Pandithurai

... Petitioner

Vs.

1.A.K.Saravanan

2.Kalpana

3.Murugan Soundarajan

4.Sundaramoorthi

5.Ravindranath

6.Kittusamy

7.The Inspector of Police,
Central Crime Branch,
Coimbatore City.

... Respondents

PRAYER: Criminal Original Petitions filed under Section 439(2) of Cr.P.C., prayed to cancel the anticipatory bail order granted to the respondents 1-6 / Accused No.1-6 passed by the learned Principal District and Sessions Judge, Coimbatore in CrI.M.P.No.1744 of 2023 dated 28.04.2023.

For Petitioner : Mr. Thanga Vadhana Balakrishnan



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For R1, R2,
R4 to R6 : Mr. V. Jeyachandran

For R3 : Mr. P. Kannan Kumar

For R7 : Mr. R. Vinothraja,
Govt. Advocate (Criminal Side)

ORDER

This petition has been filed seeking cancellation of anticipatory bail granted to the 1st to 6th respondents / 1st to 6th accused in Crl.M.P.Nos.1744 of 2023 and 2458 of 2023 by the learned Principal District and Sessions Judge, Coimbatore, by an order dated 28.04.2023.

2.The defacto complainant has filed the present petition. The learned counsel for the petitioner herein pointed out the further order passed in Crl.M.P.No.2754 of 2023 by the learned Sessions Judge, Coimbatore, sitting during the vacation, in an order dated 26.05.2023 in an application filed seeking to relax the condition which had been imposed while granting anticipatory bail, and the statement made by the Public Prosecutor that the accused had not signed as per the condition and that they are not co-



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operating with the Investigating Agency. A written reply had also been filed that the accused was not co-operating with the Investigating Agency. However, that is an issue, which can be taken up only by the Investigating Agency, if the accused prevents the free flow of investigation.

3.The learned Government Advocate (Criminal Side), however, stated that investigation has been completed and final report had also been filed before the learned Judicial Magistrate – VII, Coimbatore, who had taken cognizance of the same as C.C.No.1584 of 2023.

4.Therefore, all these issues pale into insignificance and it is for the prosecution to establish the case beyond reasonable doubt and in that direction, it is also the onus of the defacto complainant to tender proper admissible evidence during the course of trial.

5.The learned counsel then pointed out the order granting anticipatory bail, wherein, in paragraph No.9, it had been observed by the learned Principal District and Sessions Judge, Coimbatore, that the dispute between the parties can be resolved only by way of filing suit for rendition of



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accounts of the firm before the appropriate Court.

6.Let me clarify, that is only a passing remark made by the learned Principal District and Sessions Judge, Coimbatore, and the learned Trial Judge / Judicial Magistrate No.VII, Coimbatore, may follow the principles as laid down in the Indian Evidence Act, 1872, that the Court should examine whether the facts had been proved, disproved or not proved, on the basis of the materials available before the Court and not on any other aspects. Materials available before the Court should be admissible, and both oral and documentary evidence. The opinion given while granting anticipatory bail, should not influence the mind of the learned Judicial Magistrate VII, Coimbatore. To that extent, clarification is issued. Let the parties go before the Trial Court and contest the case. Accordingly, this Criminal Original Petition stands dismissed.

11.12.2023

smv



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To

- 1.The Principal District and Sessions Judge, Coimbatore.
- 2.The Inspector of Police,
Central Crime Branch,
Coimbatore City.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

smv

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