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Crl.R.C.No.1837 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1837 of 2023

Ramprabhu

... Petitioner/Accused

Vs.

The State rep. By
The Inspector of Police,
15-Velampalayam Police Station,
Tiruppur District.

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order of the learned Judicial Magistrate No.IV, Tiruppur dated 09.05.2023 in Crime No.108 of 2023 and allow this Criminal Revision Petition.

For Petitioner

: Mr.J.Franklin

For Respondent

: Mr.A.Damodaran

Additional Public Prosecutor



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ORDER

This petition has been filed to set aside the order of the learned Judicial Magistrate No.IV, Tiruppur dated 09.05.2023 in Crime No.108 of 2023 and allow this Criminal Revision Petition.

2.This Court, on 16.10.2023, passed the following order:

*“The petition has been filed seeking to set aside the order passed in Crl.M.P.No.665 of 2023 dated 09.05.2023, whereby the Judicial Magistrate III (FAC), Tiruppur cancelled the bail, which was granted by this Court in Crl.O.P.No.8342 of 2021 on 20.04.2023, following the Judgment of the Hon'ble Apex court in the case of **P.K.Shaji vs. State of Kerala** reported in **2005 AIR SCW 5560**.*

2. The contention of the petitioner is that the petitioner was granted bail by this court on 20.04.2023 with a condition that the petitioner shall appear before the learned Judicial Magistrate No.3, Tiruppur on all working days at 10.30 am and he shall also report before the respondent police, everyday at 07.00 pm, until further orders. After coming out on bail, he had complied with the conditions diligently. The respondent Police had registered a false case against the petitioner. Apprehending the physical torture, the petitioner had not appeared before the respondent police during the evening hours. But, the petitioner appeared before the Judicial



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Magistrate No.3 till 08.05.2023. Learned Judicial Magistrate No.3 while cancelling the bail order, had failed to consider the records which is available before it and hence, submitted that the order passed is perverse.

3. This Court finds reason in the submission of the petitioner and directs the Registry to number the revision, if it is otherwise in order and list the same for admission.”

3. In continuation and conjunction to the earlier order passed by this Court, today, when the matter came up for admission, learned counsel for the petitioner submitted that the petitioner has been regularly complying with the condition. Due to foisting of two cases, viz. Crime No.373 of 2023 dated 08.05.2023 for offence under Sections 294(b), 324 and 506(ii) of IPC by the Nallur Police and Crime No.389 of 2023 for offence under Sections 8(c), 20(b)(ii)(A) of NDPS Act by the Nallur Police, the petitioner apprehending physical torture and harassment by the respondent police, hence, he was unable to appear before the respondent police as well as before the learned Judicial Magistrate No.III, Tiruppur. Further submitted that in the request letter and report submitted by the respondent police dated 09.05.2023, it has



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been recorded that the petitioner appeared only on 4 days and thereafter he has not appeared, is factually incorrect. Due to the above apprehension, the petitioner could not appear before the respondent police. The respondent police as well as Nallur police are within the Tiruppur city police limit. Both were acting in tantum. Hence, the petitioner's non compliance of the order is only by forcible action of the respondent Police in tantum with the Nallur Police. Further, Crime No.373 of 2023 culminated into charge sheet in C.C.No.443 of 2023. The Trial Court by judgment dated 18.10.2023, acquitted the petitioner from the IPC case and as regards the NDPS case, it is only a small quantity and bailable offence. These factors have not been considered by the Lower Court, hence, prayed for setting aside the cancellation of bail and remand order.

4. On the contrary, learned Additional Public Prosecutor opposed the petitioner's contention stating that the petitioner is a history sheeter with H.S.No.15 in Velampalayam Police Station and he is involved in 19 cases of



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serious nature. He is a regular offender and menace to the society. The investigation in Crime No.108 of 2023 has been completed and a charge sheet in S.C.No.259 of 2023 has been filed before the learned Chief Judicial Magistrate, Tiruppur for offence under Section 120-B, 294(b) and 307 IPC. There are totally six accused, the petitioner is ranked as A1 and 25 witnesses have been listed. The case is posted for trial on 07.11.2023. The case itself can be completed within a short period. Further submitted that the petitioner has got a case for offence under Section 302 IPC, which is pending committal in PRC No.67 of 2019 and a case under Sections 395, 397 and 506(ii) is pending committal in PRC No.3 of 2023. There are four cases pending trial in C.C.Nos.331 of 2016, 86 of 2017, 217 of 2019 and 283 of 2015 and other cases are pending investigation, soon final report to be filed in these cases. The petitioner is not cooperating with the progress of the trial by absenting himself and in the meanwhile committing the offence and hence, strongly opposed this petition. Further submitted that the Trial Court on proper perusal



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of the material finding that the petitioner is not complied with the bail conditions of this Court had rightly cancelled the bail and the lower Court order needs no interference.

5. Considering the submissions made and on perusal of the material, it is seen that the condition of appearing before the Magistrate Court as well as before the respondent Police has not been complied with by the petitioner, which is not seriously disputed by the petitioner. The only stand taken by the petitioner is that due to the registration of subsequent two cases he was unable to comply with the condition. The petitioner is not new to the Court as well as to the police. He has got around 19 cases in his credit. The petitioner having obtained bail in most of the cases and he is conversant with the Court procedure, defended by advocates. In view of the same, the petitioner giving reason that registration of cases forced him not to comply the conditions cannot be accepted straightaway. The petitioner ought to have informed the learned Judicial Magistrate by way of memo through his



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counsel about the registration of false cases and for what reason he is unable to comply with the condition. Further the petitioner has not sent any representation to the superior police officers in this regard. In view of the same, the grounds taken by the petitioner is unsustainable. The Lower Court order needs no interference. In view of the above, this Court is not inclined to entertain this petition.

6. Accordingly, this Criminal Revision Case is dismissed.

06.11.2023

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M.NIRMAL KUMAR, J.

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To

- 1.The Inspector of Police,
15-Velampalayam Police Station,
Tiruppur District.
- 2.The Judicial Magistrate No.IV,
Tiruppur.
- 3.The Public Prosecutor,
High Court, Madras.

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