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Crl.MP.No.18377/2022 in Crl.OP.No.27071/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.11.2023**

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Criminal Miscellaneous Petition No.18377 of 2022
in
Crl.O.P.No.27071 of 2022

XXXX

.. Petitioner

Versus

1. The State represented by
The Inspector of Police
W-31, All Women Police Station
St. Thomas Mount
Chennai
(Crime No.9 of 2022)

2. K. Sathish Kumar

... Respondents

Criminal Miscellaneous Petition is filed under Section 439(2) of Cr.P.C to cancel the bail granted by this Court in Crl.O.P.No.27071 of 2022 dated 09.11.2022 to the 2nd respondent/accused.

For Petitioner

For Respondents

: Mr. K. Karthiresan
: Mr. C.E.Pratap,
Government Advocate (Crl.Side)
for R1
: Mr.T.Marimuthu,
for R2



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ORDER

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The Criminal Miscellaneous Petition has been filed seeking to cancel the bail granted in Crl.O.P.No.27071 of 2022 dated 09.11.2022 to the 2nd respondent/accused.

2. The allegation in the complaint is that the petitioner/defacto complainant was working in a private Bank and the second respondent/accused was her school mate and they were in love with each other for about 4 years. During that time, they used to go to several places and believing the words of the 2nd respondent/accused that he would marry her, she had sexual intercourse with him, due to which, she become pregnant. Thereafter, at the instigation of the petitioner, she had aborted her pregnancy. Even thereafter, they continued with the physical relationship and she had once again become pregnant. Once again, the 2nd respondent/accused had compelled the petitioner to abort the pregnancy and she had aborted the pregnancy. Later the accused had compelled her to borrow loan from the Bank and the defacto complainant had also borrowed a sum of Rs.5,50,000/- from the Bank and handed over the same to him. Thereafter, she had also handed over 7 ½ sovereign of jewels to him. Apart from this, she had also given a sum of Rs.3 lakhs. The further allegation is that the 2nd respondent/accused and his family members refused to



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arrange for their marriage by stating that they belonged to different community. Irked by such refusal, the petitioner had attempted to commit suicide twice. Thereafter, the accused had deleted all the photos taken by them jointly from the phone and did not even attended to her phone calls thereby, she had given a complaint to the respondent police to enquire the accused and arrange for the marriage. Based on the complaint, a case in Crime No.9 of 2022 came to be registered against the 2nd respondent for the offences under Sections 417, 376 and 406 of IPC and he was arrested on 09.10.2022. Subsequently, the 2nd respondent/accused had applied for bail before this Court in Crl.O.P.No.27071 of 2022 and this Court, by an order dated 09.11.2022, granted bail to the 2nd respondent/accused by imposing certain conditions. One of the conditions is that he has to appear before the respondent police, daily at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 a.m., until further orders. Later, the condition was modified to the effect that the petitioner shall appear before the respondent police on the first Saturday of every month at 10.30 a.m., until further orders. While so, the present petition has been filed seeking to cancel the bail granted to the petitioner.



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3. The averments made by the petitioner/defacto complainant for cancelling the bail is that the 2nd respondent/accused had mislead this Court by giving false statement that he has not availed any loan or 7 ½ sovereigns of gold from her. It is also stated that he has enacted a story that he had paid a sum of Rs.22 lakhs to her and that he is now in relationship with one Meghala, who is a police constable. The 2nd respondent/accused has been consistently making death threat to the petitioner and her sister to withdraw the complaint, which was given against him. It is the further case of the petitioner that on 08.11.2022, the petitioner has lodged a complaint against the said Meghala before the Commissioner of Police, Chennai . On 23.11.2022, when the petitioner had gone to the respondent police for the purpose of enquiry, the 2nd respondent /accused has made death threat and used abusive language against her. He had also taken photographs of her and sent the same to some other person and thereby, the present petition has been filed seeking to cancel the bail.

4. The learned counsel for the petitioner/defacto complainant would submit that the second respondent-accused has not only ravished the life of the petitioner/defacto complainant, but also received amount to the tune of more than Rs.30 lakhs from the petitioner on various dates and cheated her. Further



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the 2nd respondent/accused with the help of one Meghala, who is the police constable, is consistently threatening the petitioner and her sister and they are fearing for their life and prays for cancellation of bail.

5. Earlier, this Court had directed the respondent police to conduct an enquiry and file a Status Report. One M. Ganaprakasi, the Inspector of Police, All Women Police Station, Meenambakkam, has filed the Status Report, dated 08.09.2023. In the Status report, it is stated that the defacto complainant and her relatives have made payments to the tune of Rs.39,21,207 to the 2nd respondent/accused and that the defacto complainant had also received the amount to the tune of Rs.39,87,308 from the 2nd respondent/accused and his relatives and family members by various transactions. She would further submit that though the defacto complainant had stated about the payment of Rs.18,13,037 by way of credit card, she has not produced any evidence to the respondent police for having spent that amount. Further it is stated that during the course of investigation, it was found that one Kumaran, friend of the accused had pledged 7 ½ sovereigns of gold jewels of the defacto complainant in his brother's account, namely Kumaresan in Federal Bank, Kasthambadi Branch, A/c.23330100003452 and thereafter, a sum of Rs.1,45,000/-, was transferred from the said Kumaresan's



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account to the accused. Later on 16.09.2022, the said Kumaran redeemed the said jewels from the bank and the same was returned to the defacto complainant through one Ramamoorthy, who is the friend of the said Kumaran and the accused.

6. The learned Government Advocate(crl.side) would submit that subsequent to the release of the accused, the petitioner/defacto complainant and the 2nd respondent/accused are giving complaint and counter complaint against each other and enquiries have been conducted by the respective officers and they instructed them not to interfere into each other life. He would further submit that as per the Status Report, there had been constant money transactions between the parties and based on the proof furnished by the accused, the status report has been filed. He would further submit that as on date, investigation has been completed, final report has been filed before the Additional Mahila Court, Alandur on 22.09.2023 against the 2nd respondent/accused for the offences under Sections 406, 376(i) of IPC.

7. Mr. T. Marimuthu, learned counsel appearing for the 2nd respondent would submit that it is true that the petitioner and the 2nd respondent/defacto complainant were colleagues in the bank and there was a



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love affair between them. Later due to misunderstanding, they have parted ways and hence, the petitioner/defacto complainant has given a false complaint against the 2nd respondent/accused. He would submit that there had been series of money transactions between the parties and the 2nd respondent had not suppressed any fact, however, he was arrested on 09.10.2022. He would further submit that no case has been made out by the petitioner for cancellation of bail granted to the second respondent. In fact, there was a consensual relationship between them and only in order to harass the 2nd respondent/accused, a false complaint has been given by the petitioner. The averments made by the petitioner that subsequent to the grant of bail, the second respondent has been harassing her has been made only for the purpose of cancelling the bail granted to the 2nd respondent/accused. He would also submit that the 2nd respondent/accused was called for enquiry based on the complaint given by the petitioner and he has appeared for enquiry. During enquiry, it was found that the allegations made by the petitioner/defacto complainant are false in nature. He would further submit that the petitioner has been duly complying with the condition till the last month and that the present petition has been filed only to harass him and he would seek for dismissal of the application.



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8. I have considered the submissions made on either side and perused the materials available on records carefully.

9. It is the case of the petitioner that subsequent to the grant of bail, the 2nd respondent/accused along with one Meghala had harassed her and her sister and he has also threatened them with dire consequences. A complaint was also given by the petitioner to the respondent police on 08.11.2022 and 23.11.2022. As per the submissions of the learned Government Advocate, based on the complaint given by the petitioner/defacto complainant enquiry was conducted and parties were advised not to interfere into each other life. It is the further case of the respondent police that enquiry was conducted in respect of financial transactions and it was found that there were huge transaction of money between them and admittedly, the 7 ½ sovereign jewels, which is alleged to have been cheated, was also returned back to the defacto complainant. It is the further case of the respondent police that the investigation has been completed and the final report has been filed before the jurisdictional Court. Considering the above, this Court finds that no ground has been made out by the petitioner for cancellation of bail granted and there is no merit in this petition. In view of the above, the petition seeking to cancel the bail is to be dismissed.



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10. In the result, this Criminal Miscellaneous Petition is dismissed.

It is made clear that the 2nd respondent/accused shall not indulge in any illegal activities in breach of the conditions of bail granted to him.

02.11.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
mrp

To

1. The Inspector of Police,
W-31, All Women Police Station,
St. Thomas Mount,
Chennai.
2. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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