



Crl.OP(MD)No.15300 of 2023 &

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserved : 27/09/2023
Date of Pronounced : 09/10/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Crl.OP(MD)No.15300 of 2023
&
Crl.MP(MD)No.11545 of 2023 in Crl.OP(MD)No.13298 of 2023

(1)Crl.OP(MD)No.15300 of 2023:-

A.Jeensingh : Petitioner/Intervenor/De-facto Complainant

Vs.

1.Mini Martin

2.Cinjula : R1 and R2/Petitioners/ A1 and A2

2.The State of Tamil Nadu

Rep. by Inspector of Police,
DCB, Through the Public Prosecutor,
Kanyakumari District at Nagercoil.
(Crime No.36 of 2023)

: R3/1st Respondent/Complainant

PRAYER:- Criminal Original Petition has been filed under section 439(2) r/w 482 of the Criminal Procedure Code, to cancel the bail granted by the Principal Sessions Judge, Kanyakumari District at Nagercoil in Crl.MP No.3785 of 2023, dated 17/07/2023 and pass such other orders.



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For Petitioner : Mr.S.Ramsundarvijayraj, Advocate

For R1 and R2 : Mr.Micheal Sebastin

For 3rd Respondent : R.Suresh Kumar
Government Advocate
(Criminal side)

(2)Crl.MP(MD)No.11545 of 2023 in Crl.OP(MD)No.13298 of 2022:-

A.Jeensingh : Petitioner/De-facto Complainant

Vs.

1.A.Arun : R1/Petitioner/ A3

2.The State of Tamil Nadu,
rep. by Inspector of Police,
DCB through the Public Prosecutor,
Kanyakumari District at Nagercoil.
(Crime No.36 of 2023) : R2/1st Respondent/ Complainant

PRAYER:- Criminal Original Petition has been filed under section 439(2) r/w 482 of the Criminal Procedure Code, to cancel the bail granted by this Court in Crl.OP(MD)No.13298 of 2023, dated 20/07/2023 and pass such other orders.

For Petitioner : Mr.S.Ramasundarvijayaraj, Advocate

For 1st Respondent : Mr.R.L.Dhilipan Pandian, Advocate
for Mr.L.Lenish, Advocate

For 2nd Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)



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COMMON ORDER

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These criminal original petitions have been filed seeking cancellation of the bail granted by the trial court as well as by this court.

2.The case of the prosecution in brief:-

The petitioner as de-facto complainant filed a complaint stating that he was working as Area Manager in M/s.ICL Fincrop Limited, engaged in business of gold loan facility. During the course of business, they recruited one Mini Martin as Assistant Head, later he was promoted as Assistant Manager. Other three staff members are Cinjula, Arun and Ajayajincy and periodically auditing was undertaken in a routine manner. In the course of the above said auditing between 10/11/2022 and 21/11/2022, it was found that the original gold in 896 pockets contains less weight. The original weight was 6655.470 grams. By using KYC forms, the above said Mini Martin has sanctioned loan in excess of the eligible limit. The signature of the auditors were also found to be fake and the customers signatures also forged for opening the pockets.

3.The above said Branch Manager with the connivance of others indulged in



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misappropriation. During the course of investigation, the Branch Manager and others admitted the guilt and also assured to compensate the loss. But they failed to keep up their promise. They promised to remit Rs.59,00,000/-, but failed to pay the same. On the basis of the above said occurrence, a case in Crime No.36 of 2023 was registered for the offences under sections 120-B, 406, 409 and 420 IPC.

4.A1 and A2 were granted regular bail by the Principal Sessions Judge, Kanyakumari District at Nagercoil, in Crl.MP No.3785 of 2023. Similarly, A3-Arun was granted regular bail by this court in Crl.OP(MD)No.13298 of 2023, dated 20/07/2023.

5. Seeking cancellation of bail granted to A1 to A3, these two petitions have been filed by the de-facto complainant on the ground that misrepresentation was made by A1 to A3 not only before the Principal Sessions Judge, Kanyakumari, but also before this court stating that they already paid Rs.5,90,000/-.

6. Heard both sides.

7. The only ground on which, these petitions came to be filed is that a wrong



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representation was made by A1 to A3 not only before this court, but also before the Principal Sessions Judge, Kanyakumari while granting bail. It has been stated by the petitioner that Rs.35,00,000/- was stated to be paid by A1, but actually that amount was not paid.

8.Per contra, the learned counsel appearing for the private respondents/ A1 to A3 would submit that what they have stated before the trial court as well as before this court that they have made arrangements to pay the above said amount of Rs.35,00,000/-; They never mentioned that the said amount was actually paid; Even in the FIR itself, it has been stated that the accused made arrangement to pay the money; That should not be construed or taken to mean that it was actually paid. According to them, absolutely, they did not make any wrong statement or misrepresentation as the case may be.

9.Perusal of the records shows that after prolonged incarceration period only, the trial court as well as this court considered the bail application of the accused persons.

10.Now perusal of the records also shows that the investigation is almost



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completed. It is seen that no purpose is going to be served by cancelling the bail and
subjecting the accused persons once again to judicial custody.

11. There is misreading or misunderstanding of the submission made by the accused persons not only before the lower court, but also before this court. That should not be a reason for cancelling bail. Absolutely, no post-bail conduct has been brought on record. So, I find no reason to allow these petitions.

12. In the result, both petitions are **dismissed**.

sd/-
09/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE INSPECTOR OF POLICE
DCB, THROUGH THE PUBLIC PROSECUTOR,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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ORDER
IN

Crl.OP(MD)No.15300 of 2023

&

Crl.MP(MD)No.11545 of 2023
in Crl.OP(MD)No.13298 of 2023

Date :09/10/2023

SS/JGB/SAR- /01/11/2023/7P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023