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Crl.RC.No.1250 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.1250 of 2023

Nizamuddin @ M.Mohammed Marzook
S/o.Mohammed Rafi,
Rep. by his Power Agent,
Mr.M.AbuBakkar

...Petitioner

Versus

1. The Deputy Commissioner of Police,
Central Crime Branch,
Chennai Metropolitan Police,
Vepery, Chennai – 600 007.

2. Sub-Inspector of Police,
EDF-III, Team XX-B,
CCB, Vepery, Chennai – 600 007.

3. M.Siddhiq @ Abu Bakkar

4. S.Sirajudeen

5. A.Hidayatha Ulla

...Respondents

Prayer: Criminal Revision Petition filed under Section 397 r/w 401
of Code of Criminal Procedure, set aside the order dated 02.09.2022 in



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Criminal M.P.No.1516 of 2022 on the file of the Judicial Magistrate Court -I
, Alandur to register a F.I.R. based on the complain dated 07.03.2022.

For Petitioner : M/s.Nizamuddin
For Respondents : Mr.N.A.Nissar Hussain
Mr.A.Gopinath,GA for R1 and R2
No Appearance for R4 and R5
Not ready in Notice [R3]

ORDER

This writ petition has been filed seeking to quash the order dated 02.09.2022 in Criminal M.P.No.1516 of 2022 on the file of the Judicial Magistrate Court -I, Alandur to register an F.I.R. based on the complaint dated 07.03.2022.

2. Though notice was served on the respondents 4 and 5, no one appeared on behalf of the respondents 4 and 5. Considering the period of pendency of the writ petition, the same is disposed of based on the materials available on records.

3. It is the case of the petitioner that the writ petitioner / complainant filed a complaint as against the respondents 3 to 5 in connection with crime



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No.418 of 2014 before the CCB, Chennai against which the respondent 3 to 5 filed an Anticipatory bail application before this Court and this Court has granted bail in favour of the accused based on the affidavit of undertaking given by them. Seeking to cancel the said bail, the petitioner filed a petition and the same was allowed in favour of the petitioner, pursuant to which the third respondent was arrested. Based on the conditional order passed by the Judicial Magistrate Court, Alandur, the third respondent was released on bail as per the order of this Court pursuant to the compliance of the conditional order and also executed a bond for a sum of Rs.50,00,000/- along with two sureties. Subsequently, it is alleged that the third respondent colluding with the respondents 4 and 5, had fabricated the said documents and hence a cancellation of bail petition was filed by the petitioner before the Court below which again was dismissed with a direction to the petitioner to file a complaint before the law enforcing agency. Whiles, the petitioner preferred a complaint before the law enforcing agency. Since the same was not considered, the petitioner filed a complaint before the learned Judicial Magistrate Alandur, under Section 156(3) of Cr.P.C. to direct the respondent Police to register the case against the accused, which was



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numbered as Crl.M.P.No.1516 of 2022 and the same was dismissed vide order dated 02.09.2022 on the ground that the said petition is not maintainable as per Section 443 of Cr.P.C. Challenging the same the petitioner is in this revision petition.

4. The learned counsel for the petitioner submits that when the execution of bond has been forfeited by the accused persons, there is a remedy available to the petitioner/complainant to make an application before the trial Court u/s.443 of Cr.P.C. Though the petitioner made an application before the trial Court seeking cancellation of bail, the same was rejected with a direction to the petitioner to file a complaint before the law enforcing agency which is per se unsustainable. Hence, this Court may set aside the impugned order and permit the petitioner to file appropriate application u/s.443 of Cr.P.C. before the trial Court and upon receipt of the said application the trial Court may pass appropriate orders on merits and in accordance with law.

5. The learned Government Advocate appearing for the respondents 1



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and 2 submits that if through mistake, fraud, insufficient sureties have been accepted while execution of bail bond, the trial Court may to issue a warrant of arrest as per Section 443 of Cr.P.C directing the person released on bail be brought before it and may order him to find sufficient sureties and on his failing so to do, may commit him to jail. Hence, this Court may set aside the impugned order and direct the petitioner to file a fresh petition seeking appropriate orders u/s.443 of Cr.P.C.

6. In view of the fair submission made by the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2, this Court without expressing any opinion on the merits of the case, permits the petitioner to file an application u/s.443 of Cr.P.C. before the trial Court within a period of two weeks from the date of receipt of a copy of this order and upon receipt of such application, the trial Court is directed to pass appropriate orders after providing opportunity to the petitioner as well as the respondents 3 to 5 as expeditiously as possible. Accordingly, the impugned order passed by the Judicial Magistrate Court – I, Alandur dated 02.09.2022 in Crl.M.P.No.1516 of 2022 is set aside.



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22.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

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2. Sub-Inspector of Police,
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M.DHANDAPANI, J.

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