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Crl.O.P.Nos. 9537 & 10684 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

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

Crl.O.P.Nos. 9537 & 10684 of 2023

And

Crl.M.P.No. 3749 of 2024

IN

Crl.O.P.No. 23827 of 2023

Crl.O.P.No. 9537 of 2023

S.Sharmila

... Petitioner/Defacto Complainant

Vs.

1. The Inspector of Police (Crime)
T-11-Thirunniravur Police Station
Thirunniravur, Thiruvallur District.

2. T.Yamuna

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(2) of Cr.P.C.,
against the order passed in Crl.M.P.No. 4031 of 2023 in Crime No. 55 of
2023 dated 12.04.2023 passed by the learned Judicial Magistrate Court No.2,
at Thiruvallur.

For Petitioner : Mr. M.Murugesan



Crl.O.P.Nos. 9537 & 10684 of 2023

For 1st Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)

For 2nd Respondent : M/s. Preethi Baskar

Crl.O.P.No.10684 of 2023

S.Sharmila

... Petitioner/Defacto Complainant

Vs.

1. The Inspector of Police (Crime)
T-11-Thirunniravur Police Station
Thirunniravur, Thiruvallur District.

2. S.Karthikeyan

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(2) of Cr.P.C.,
against the order passed in Crl.M.P.No. 5299 of 2023 in Crime No. 55 of
2023 dated 02.05.2023 passed by the learned Judicial Magistrate Court No.2,
at Thiruvallur.

For Petitioner : Mr. M.Murugesan

For 1st Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)

For 2nd Respondent : M/s. Preethi Baskar



Crl.O.P.Nos. 9537 & 10684 of 2023

Crl.M.P.No. 3749 of 2024

S.Sharmila

... Petitioner/Defacto Complainant

Vs.

1. The Inspector of Police (Crime)
T-11-Thirunniravur Police Station
Thirunniravur, Thiruvallur District.

2. S.Karthikeyan

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(2) of Cr.P.C., to cancel the bail granted to the second respondent in Crl.O.P.No. 23827 of 2023 dated 20.10.2023 passed by the Hon'ble High Court of Madras and allow the Criminal Miscellaneous Petition.

For Petitioner : Mr. M.Murugesan

For 1st Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)

For 2nd Respondent : Mr.S.Rajakumar

COMMON ORDER

The defacto complainant has filed petitions seeking to cancel the bail granted to A-1 /S.Karthikeyan in Crl.O.P.No. 10684 of 2023 and A-2



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/T.Yamuna in Crl.O.P.No. 9537 of 2023 by the learned Judicial Magistrate No.2, Thiruvallur, by orders dated 02.05.2023 and 12.04.2023 respectively.

2. Crl.M.P.No. 3749 of 2024 has been filed to cancel the bail granted to the first accused / S.Karthikeyan in Crl.O.P.No. 23827 of 2023 by an order dated 20.10.2023.

3. While granting bail to the second accused /T.Yamuna in Crl.M.P.No. 4031 of 2023, the learned Judicial Magistrate No.II, Tiruvallur, had imposed a condition to execute a bond for a sum of Rs.10,000/- and produce two sureties for likesum and to appear before the respondent police daily at 10.00 a.m., for 15 days and not to tamper with evidence or witness during investigation and not to abscond during investigation or trial and not to commit any similar offence while on bail.

4. While granting bail to the first accused/ S.Karthikeyan in Crl.M.P.No. 5299 of 2023, the learned Judicial Magistrate No.II, Tiruvallur, had imposed a condition to execute a bond for a sum of Rs.10,000/- and produce two sureties for likesum and to appear before the respondent police



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daily at 10.00 a.m., for 30 days and not to tamper with evidence or witness during investigation and not to abscond during investigation or trial and not to commence any similar offence while on bail.

5. The terms and conditions on bail granted by the learned Judicial Magistrate No.II, Tiruvallur, in Crl.M.P.No. 5299 of 2023 had been violated by the first accused/ S.Karthikeyan. Hence, he was again arrested and remanded to judicial custody. Thereafter, he moved bail petition in Crl.O.P.No. 23827 of 2023. This Court by an order dated 20.10.2023 had granted bail by imposing more or less similar conditions and also directed that if there is breach of any of the conditions, then, the trial Court is entitled to take appropriate action against the first accused in accordance with law.

6. There is no argument advanced that any of the conditions have been violated though it is pointed out that the second accused is not appearing before the trial Court during the case hearing dates regularly. But the status of the case shows that even if the second accused is physically absent, there is representation by counsel on behalf of the second accused. One further factor is that the trial had commenced which indicates that the



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charges have been framed. Once the charges have been framed, then it is the duty of the prosecution to establish the charges in manner known to law.

7. The petitioner herein is also assisting the prosecution during the course of trial. Then there is a duty to marshal oral and documentary evidence to prove the charges.

8. The recording of the witnesses had commenced and it has been recorded even at the time of granting bail to the first accused, that three witnesses had already been examined and their evidence had been recorded.

9. It is now informed that further witnesses have also been examined and also cross examined on behalf of one of the accused and a petition seeking to recall the witness for further cross examination has been filed. More interestingly, the petitioner herein has also filed an application seeking further investigation. If that be the case, then the trial will never end. This would imply that the conclusion of the trial would be a long process as the learned trial Judge will have to take a decision on the application seeking further investigation and any order passed could be questioned before any



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higher forum. The petitioner should now concentrate on tendering evidence to ensure that the charges are established. That is the primary duty of the petitioner.

10. It is contended by the learned counsel that examination in chief of the petitioner is half way through. Naturally this Court can never enter into a discussion on the facts of the case as that is prerogative of the learned trial Judge.

11. In view of the reasons stated above, all the Petitions stands dismissed.

14.03.2024

vsg
To

1. Judicial Magistrate Court No.2, at Thiruvallur.
2. The Inspector of Police (Crime)
T-11-Thirunniravur Police Station
Thirunniravur, Thiruvallur District.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

vsg

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And
Crl.M.P.No. 3749 of 2024
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