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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP No.11175 of 2023

Naina Ravi

..Petitioner/ Respondent/Accused-2

.Vs.

1.M.Rafi

2.The Inspector of Police
City Crime Branch
Coimbatore City.

..Respondent/Complainant

(R2 impleaded as per order dt.9.1.2024
in Crl.OP.No.11175 of 2023)

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to CMP.No.45094 of 2022 in CC.No.1570 of 2020, passed by the Judicial Magistrate No.VII, Coimbatore and set aside the order dated 26.12.2022 by allowing this petition.

For Petitioner : Mr.K.N.Balasubramaniam

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side) for R2

**ORDER**

This petition has been filed challenging the order passed by the Court below in CMP.No.45094 of 2022, dated 26.12.2022, issuing non-bailable warrant against the petitioner to secure him and to produce him before the Court.

2.Heard Mr.K.Balasubramaniam, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) for the R2.

3.The petitioner was an accused in Crime No.61 of 2019, which was registered for alleged offence under Sections 120(b), 406, 420 and 506(1) IPC. The petitioner apprehended arrest and therefore, filed an anticipatory bail petition before this Court in Crl.OP.No.34132 of 2019. This Court by an order dated 13.01.2020, granted anticipatory bail to the petitioner by imposing certain conditions. One such condition that was imposed was that the petitioner should pay to the de facto complainant a sum of Rs.1.10 crores on or before 17.6.2020.

4.The petitioner seems to have sought for extension of time and it was dismissed as withdrawn. Thereafter, the petitioner was not able to mobilize the funds and therefore, he filed a petition for modification. It is stated that this petition was returned and thereafter, it was not represented and prosecuted.

5.In the meantime, the petitioner also filed a quash petition before this



Court in CrI.OP.No.491 of 2021 and this quash petition came to be dismissed by an order dated 5.8.2022.

6.The de facto complainant filed an application under Section 437(5) Cr.PC in CMP.No.45094 of 2022, before the Court below on the ground that the petitioner did not comply with the condition imposed by the High Court and did not deposit the money and therefore, the bond executed by the petitioner must be cancelled and non-bailable warrant must be issued against the petitioner to secure the petitioner.

7.The Court below by an order dated 26.12.2022, passed an order cancelling the bond executed by the petitioner and issued non-bailable warrant to secure the petitioner.

8.The above order has been challenged by the petitioner mainly on the ground that the Court below did not give any opportunity to the petitioner before cancelling the bond.

9.In the considered view of this Court, there is no dispute with regard to the fact that the petitioner did not pay the amount as directed by this Court. The petitioner also did not effectively take any steps to seek for modification of the condition. Therefore, there was violation of the condition imposed by this

Court and the Court below has rightly invoked the judgment of the Apex Court



in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]** and cancelled

the bond executed by the petitioner and issued non-bailable warrant. Even if notice had been issued to the petitioner before the order was passed, the petitioner could not have been placed in a better position. The fact remains that the petitioner did not pay the amount as directed by this Court which is in violation of the condition imposed by this Court while granting anticipatory bail. Therefore, it has to necessarily result in cancellation of the bond and issuance of non-bailable warrant.

10.This Court finds that there are absolutely no grounds to interfere with the Order passed by the Court below and accordingly, this criminal original petition stands dismissed.

01.02.2024

Speaking Order/Non-Speaking Order
Index: Yes/No
Internet: Yes/No
kp



WEB COPY

To

- 1.The Inspector of Police
City Crime Branch
Coimbatore City.
2. Judicial Magistrate No.VII,
Coimbatore.
- 3.The Public Prosecutor,
High Court, Madras.





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