



Crl.O.P.Nos.13333 & 13861 of 2023

WEB COPY

Crl.O.P.Nos.13333 & 13861 of 2023

C.V.KARTHIKEYAN,J.

The petitioner/A1 has filed Crl.O.P.No.13333 of 2023 and the petitioner/A3 has filed Crl.O.P.No.13861 of 2023, both in Crime No.11 of 2023, registered by the respondent police for the offences under Sections 209, 409, 420, 465, 477A and 381 of IPC, seek anticipatory bail.

2.The matter actually came up earlier for consideration before this Court and an order was passed on 31.01.2024, wherein the facts had been reduced. Let me extract the facts from the order dated 31.01.2024:

“2.The defacto complainant is the II Additional Sub Judge, Cuddalore. It is the case of the prosecution that MCOP No.826 of 2003 had been filed before the said Court seeking compensation for the motor accident death of one Padmanaban. The 3rd accused was the counsel on record for the claimants. An award had been passed on 07.07.2004 and the amounts payable to the minors were directed to be deposited in Fixed Deposits. Similarly, MCOP



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

No.1826 of 2003 had been filed seeking compensation for the motor accident death of one Sasikumar. An award had been passed and again the share of the minors were directed to be deposited in Fixed Deposits.

3.It is the case of the prosecution that the claimants in MCOP No.1826 of 2003 filed an application seeking withdrawal of the amounts deposited. It is contended that however, the Court clerk had wrongly indicated the amount deposited in MCOP.No.826 of 2003 and payment out was directed. Thereafter, A3 had filed yet another application in MCOP No.826 of 2003 for payment out. Before ordering that application, a complaint had been lodged.

4.It is the contention of the learned counsel for the petitioner / A1 that though A1 was a Court clerk, there are two other clerks who had handled the registers earlier and therefore, A1 cannot be solely held accountable for wrongfully permitting withdrawal of the amounts lying to the deposit of MCOP No.826 of 2003.



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

5.It is the contention of the learned counsel for the petitioner / A3 that application had been filed bonafide in MCOP No.826 of 2003 without realizing that the claimants have already been disbursed with the amounts, which had been lying to the credit of MCOP No.1826 of 2023.

6.The learned counsel for the Intervener / claimants in MCOP No.1826 of 2003 had also entered appearance.

*7.Let me strike a balance and **grant interim protection alone from arrest to both these petitioners till 23.02.2024.** Both these petitioners are directed to go over to the II Additional Sub Court at Cuddalore and determine the compensation payable to the claimants in MCOP No.1826 of 2003 and deposit that amount together with interest as on the date of deposit, in Court and on such deposit, the learned II Additional Sub Judge, Cuddalore, may issue notice to the claimants in MCOP No.1826 of 2023 and also to the investigating officer pay out the amounts.*



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

8.Let a report be filed by the investigating officer in that regard before this Court on 26.02.2024.

9.It is made clear that the adjustment of excess payment made to the claimants in MCOP No.826 of 2003 may or may not be done and this Court is not giving any such directions but specifically, the claimants in MCOP No.1826 of 2003 should be paid their lawful compensation with interest as on date.

10.Let this arrangement be made and a report be filed before this Court. If prudent steps are not taken, interim protection granted would be withdrawn.”

3. Thereafter, a report was sought from the learned II Additional Sub Judge, Cuddalore, which had been forwarded in D.No.484 of 2024 dated 26.02.2024. In the report, the learned II Additional Sub Judge, Cuddalore, had stated as follows:



WEB COPY



CrI.O.P.Nos.13333 & 13861 of 2023

" 1.I submit that the order of the Hon'ble High Court was received by post on 12.02.2024. As per the order of the Hon'ble High Court, it was directed as follows "7.... Both these petitioners are directed to go over the II Additional Sub Court at Cuddalore and determine the compensation payable to the claimants in MCOP.NO.1826 of 2003 and deposit that amount together with interest as on the date of deposit, in Court and on such deposit, the learned II Additional Sub Judge, Cuddalore, may issue notice to the claimants in MCOP.No.1826 of 2023 and also to the investigating officer pay out the amounts."

2.I submit that one of the petitioner namely, R.Gunalan filed a memo through his counsel on 05.02.2024, when I was on medical leave, it was attended by the I ASJ on 07.02.2024 after that Sheristadar of the PSJ Court putted up the records on 12.02.2024 so the memo case was posted for appearance of the Petitioner (R.Gunalan) on 14.02.2024 in open Court. On 14.02.2024, the Petitioner-R.Gunalan present in the open Court so it was directed to workout the amount ad directed to issue challan then the Sheristadar worked out the amount based on a letter from the Canara Bank, Palur Branch,



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

Cuddalore District and find out that the Rs.2,42,000/- i.e FD amount stolen by the Petitioner and calculated the interest of Rs.1,82,418/- upto 31.01.2024, then the amount was deposited by the Petitioner-R.Gunalan on 19.02.2024. The Petitioner filed a memo with copy of remittance challan on 20.02.2024.

3.I submit that the Petitioner in Crl.O.P.No.13861/2023-Jayasankar S/o. Ramalingam did not appear before the Court (II ASJ) till date but he came and asked the Office Assistant-Prakasam on 23.02.2024 at afternoon time to meet the Judicial Officer in his Chamber, but he was advised to meet the Sheristadar for his representation to comply the Hon'ble High Court directions, then he met the Sheristadar and told his amount already availed in the case so that may be given to the affected parties.

4.I submit that the Petitioners namely Tmt.Saranya D/o. Pathmanaban and Tmt.Lavanya D/o.Pathmanaban, who are one of Petitioners in MCOP.No.826 of 2023 and Accused -4 & 5 in Crime No.11/2023, file a Crl.O.P.No.17643/2023. As per the order of the Hon'ble High Court in Crl.O.P.No.17643/2023



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

dated 11.08.2023, which was received by this Court on 04.09.2023 is as follows:

"10. Based on the calculation that was given by either side, it is seen that the Petitioners have received a sum of Rs.5,40,540/- on 11.04.2012 instead of the amount which they are entitled to viz., Rs.4,36,000/-. Therefore, there is an excess amount of Rs.1,04,540/- which has been received by the Petitioners as on 11.04.2012. This amount shall be deposited by the petitioners to the credit of Crime No.11 of 2023 on the file of the Judicial Magistrate II, Cuddalore, within a period of four (4) weeks from today.

11. On such deposit, the same shall be intimated to respondent Police and the respondent Police shall file a closure report before the concerned Court."

Accordingly, this Criminal Original Petition is disposed of in the above terms."

5. I submit that the Judicial Magistrate II (FAC), Cuddalore sent a letter in D.No.1297/2023 dated 04.10.2023 to the Principal Sub Judge,



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

Cuddalore that the Petitioners Tmt.Saranya & Tmt.Lavanya are paid the excess amount of Rs.1,04,540/- into the JM-II Court account.

6.I submit that as per the order of the Hon'ble High Court in Crl.O.P.Nos.13333/2023 & 13861/2023 is as follows:

"9. It is made clear that the adjustment of excess payment made to the claimants in M.C.O.P.No.826 of 2003 may or may not be done and this Court is not giving any such directions but specifically, the claimants in MCOP.No.1826 of 2003 should be paid their lawful compensation with interest as on date.

10.Let this arrangement be made and a report be filed before this Court. If prudent steps are not taken, interim protection granted would be withdrawn.

11.Call the matter once again on 26.02.2024 under the caption 'for reporting compliance.'"

7. I submit that to pay the dues i.e. compensation to the claimants in MCOP



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

No.1826/2003 the amount deposited in the JM-II, Cuddalore Court i.e. Rs.1,04,540/- to be transferred to the account of Principal Sub Court, Cuddalore. Further I submit that the Claimant – Divya D/o. Sasikumar (4th Petitioner) in MCOP.No.1826/2003 also filed send for application on 23.02.2024. Thereafter only the amount payable to the claimants can be calculated and if any deficit amount from the Petitioners (R.Gunalan & Jayasankar) can be recovered.

Hence I submit that in view of the above, a suitable direction may kindly be issued by the Hon'ble Court to transfer the amount from JM-II, Cuddalore, to the Principal Sub Court, Cuddalore and a fresh calculation may be worked out for the claimants to be fully paid out."

4.It is thus seen that the two petitioners herein had bonafide taken bonafide steps to address the issues raised by the defacto complainant. Directions are now given that the amount deposited of Rs.1,04,540/- which had been deposited to the Court of Judicial



Crl.O.P.Nos.13333 & 13861 of 2023

Magistrate II, Cuddalore, may be transferred, in manner known to law and following the due procedure, to the Principal Sub Court, Cuddalore.

In this regard, the Principal Sessions Judge, Cuddalore may also ensure that proper procedure is followed in such transfer. Thereafter, further steps may be taken up by the II Additional Sub Court, Cuddalore in ensuring that the claimant minor Dhivya D/o. Sasikumar, 4th petitioner, and minor Akash S/o. Sundaramoorthy, 5th petitioner in MCOP.No.1826 of 2003 are paid the actual compensation payable together with interest. If there is any deficit to be made out, the present petitioners are at direct responsibility to pay effect such payment.

5.Taking into consideration all these facts, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions:

6.Accordingly, the petitioners in both the Criminal Original Petitions are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the



WEB COPY

date on which the order copy made ready, before the **Judicial Magistrate II, Cuddalore**, on condition that the petitioners shall execute separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** each with two sureties for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 1, 2 and 4/A1, A2 and A4 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall appear before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court



Crl.O.P.Nos.13333 & 13861 of 2023

himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7.It is made clear that if the compliances are not done in a manner known to law or there is deliberate procrastination undertaking by any of the accused, in this regard, the defacto complainant is at liberty to file necessary application seeking cancellation of this order.

12.03.2024
(1/2)

ata



WEB COPY



Crl.O.P.Nos.13333 & 13861 of 2023

C.V.KARTHIKEYAN,J.

ata

Crl.O.P.Nos.13333 & 13861 of 2023

12.03.2024
(1/2)