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Crl. O.P.No.22431 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.22431 of 2024

V.Raman

.. Petitioner

Vs.

State by

1. The Inspector of Police,
CCB, EDF-I, Team-2,
Veppery, Chennai
(Cr.No.422 of 2014)

2. Prabhakaran

.. Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, to set aside the order passed in Crl.MP.No.15680 of 2024 in Crl.MP.No.1527 of 2024 in C.A.No.34 of 2024, dated 08.08.2024 on the file of the Principal Sessions Judge, Chennai.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side) for R1



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ORDER

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The petitioner herein is the complainant in C.C.No.3536 of 2020 on the file of CCB and CBCID Metropolitan Magistrate, Egmore, Chennai.

2. The trial Court has convicted the accused and sentenced him to undergo three years Rigorous Imprisonment and to pay a fine of Rs.5000/-. That apart, Rs.65,00,000/- was ordered to be paid as compensation. On appeal, the lower Appellate Court has suspended the imprisonment alone and not the compensation ordered to be paid to the complainant. The petitioner being aggrieved by the fact that the accused has not paid the compensation, has moved the lower Appellate Court to cancel the suspension of sentence. The lower Appellate Court vide order dated 08.08.2024 had dismissed the application for cancellation of bail on the ground that the High Court has given liberty to the petitioner to move the court for enforcing the order of the trial Court in respect of payment of compensation, but, it does not give an opportunity for him to seek cancellation of bail. Therefore, petition for cancellation of bail is not maintainable.



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3. The learned counsel appearing for the petitioner submits that the payment of compensation ought to have been one of the bail conditions and even if it is not part of the bail condition, non payment of compensation tantamount to violating the condition and therefore, the bail granted to the accused has to be cancelled.

4. This Court on examining the provisions of the Code finds that under Section 357 of the Code, compensation to the victim, whether the fine is paid or not, can be awarded and in this case, the trial Court has thought fit that apart from sentencing the accused, the victim has to be compensated. The recovery of fine and compensation is dealt under Sections 421 and 431 of Cr.P.C. When recovery of fine is specifically stated under 421 of Cr.P.C., Section 431 of Cr.P.C is an omnibus clause which speaks about the recovery of money other than fine. On combined reading of these provisions, it is clear that the compensation awarded by the trial Court can be recovered as fine and for such purpose the procedure laid down under Section 421 of Cr.P.C to be followed.

5. In this case, the trial Court has awarded compensation, the Appellate Court has not stayed the recovery of compensation from the



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petitioner. Therefore, the petitioner, who is the victim, is entitled to resort to the procedure laid under Section 421 of Cr.P.C for recovery of compensation amount.

6. With the above observation, this Criminal Original Petition is disposed of giving liberty to the petitioner herein to resort to the provisions under the Code for recovery of compensation amount.

23.10.2024

Vv

To

- 1.The Inspector of Police,
CCB, EDF-I, Team-2,
Veppery, Chennai.
- 2.The Principal Sessions Judge,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

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