



Crl.O.P.No.27951 of 2023

In the High Court of Judicature at Madras

Dated : 13.3.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.27951 of 2023
& Crl.M.P.No.19402 of 2023

1.Sridevi

2.Nandhakumar

...Petitioners

Vs

1.The State rep.by

The Inspector of Police,
District Crime Branch,
Salem, Salem District.

2.Vignesh

...Respondents

PETITION Section 482 of the Criminal Procedure Code praying to call for the records in Online CMP.No.1450 of 2023 in Cr.M.P.No.3373 of 2023 passed by the learned Judicial Magistrate No.6, Salem and set aside the same.

For Petitioners	:	Mr.K.T.S.Sivakumar
For R1	:	Mr.A.Gopinath, GA (Crl.Side)
For R2	:	Mr.N.Siva



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ORDER

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This is a petition filed by the petitioners challenging the order passed by the Court below dated 21.11.2023 in Online CMP.No.1450 of 2023 in Cr.M.P.No.3373 of 2023 filed by the second respondent seeking cancellation of bail granted on 24.3.2023 in favour of the petitioners in CMP.No.359 of 2023 in Cr.M.P.No.930 of 2023.

2. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

3. The second respondent, who is the defacto complainant, had given a complaint against the accused persons on the ground that the defacto complainant supplied materials, that towards the same, the accused persons had to pay a total sum of Rs.30 lakhs, that when the defacto complainant requested the accused persons for the payment of money that was due, three cheques were issued by the accused persons and that all those cheques were returned with an endorsement 'insufficient funds'. Hence, the defacto complainant took a stand that the accused persons cheated him and gave a complaint



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to the first respondent. Based on the complaint given by the defacto complainant, a first information report came to be registered in Crime No.6 of 2021 for offences under Sections 409 and 420 of the Indian Penal Code.

4. It is seen that earlier, the accused persons filed a petition in Crl.O.P.No.25665 of 2021 seeking anticipatory bail before this Court and it was dismissed on 31.1.2022. Thereafter, the accused persons were arrested and remanded to judicial custody on 17.3.2023. Hence, they filed a petition for bail before the Court below in Online CMP.No. 359 of 2023 in Cr.M.P.No.930 of 2023. Further, by order dated 24.3.2023, the Court below enlarged the petitioners on bail by imposing certain conditions.

5. The second respondent was aggrieved by the fact that he was not heard by the Court below before granting bail to the petitioners. Hence, he filed Crl.O.P.No.8992 of 2023 before this Court. By order dated 14.9.2023, this Court disposed it of granting liberty to the second respondent to move the Court below seeking cancellation of bail granted in favour of the petitioners.



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6. Pursuant to that, the second respondent filed Online CMP.No. 1450 of 2023 in Cr.M.P.No.3373 of 2023 seeking cancellation of bail. By the impugned order, the Court below cancelled the bail that was granted to the petitioners by assigning the following reasons :

"Aggrieved on the order of this court, the petitioner has come forward with this petition as per direction of Ho'ble High Court in Crl.O.P.No.8992/2023. The petitioner has stated that before the remand of accused, the accused have preferred anticipatory bail petitions before Hon'ble Principal District Judge, Salem in Crl.M.P.No.4947/2021 dated 16.12.2021 and before Hon'ble High Court, Madras in Crl.O.P.No.25665 of 2022 and those petitions were dismissed. The prosecution has not disclosed the dismissal orders of earlier anticipatory bail petition before higher forums during their reply while considering the bail petition. More over, Hon'ble High Court has directed this Court to hear both the parties and pass appropriate orders on merits in accordance with law in Crl.O.P.No.8992/2023. The petitioner has filed the copy of alleged cheques and memo of dishonour of cheques and the income tax statement showing the pending amount of Rs.29,00,000/- from accused, while considering this petition. It is pertinent to note that in the case under consideration, without knowing the fact that higher forum has dismissed the anticipatory bail to accused, this Court has granted bail to accused subject to conditions. The citations



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relied by both parties does not relate to the circumstance in this petition. Considering the above stated circumstance, this Court is inclined to cancel the bail granted to A1 Sridevi and A2 Nandhakumar on 24.3.2023 made in Online CMP.No.359/2023 in CMP.No.930/2023. The point is answered accordingly."

7. In the considered view of this Court, the order dated 31.1.2022 passed by this Court in Crl.O.P.No.25665 of 2021 will have no relevance while considering a bail petition by the Court below. The parameters for considering a bail petition are completely different from the parameters prescribed for considering a petition for anticipatory bail. Therefore, the dismissal of the earlier petition for anticipatory bail by the higher forum cannot be a ground for cancelling the bail.

8. That apart, the Court below has also mentioned about the dishonour of cheques that were issued by the accused persons. This fact is not a supervening circumstance warranting cancellation of bail. This Court does not find any ground to cancel the bail that has been granted in favour of the petitioners. In fact, it is seen that there was



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a commercial transaction between the parties, which resulted in the filing of the complaint. In the light of the above discussions, this Court has no hesitation to interfere with the impugned order passed by the Court below.

9. Accordingly, the above criminal original petition is allowed and the order dated 21.11.2023 passed in Online CMP.No.1450 of 2023 in Cr.M.P.No.3373 of 2023 on the file of the learned Judicial Magistrate No.6, Salem is hereby quashed. Consequently, the connected Crl.M.P. is closed.

13.3.2024

To

- 1.The Judicial Magistrate No.6,
Salem.
- 2.The Inspector of Police,
District Crime Branch, Salem,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.

RS



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N.ANAND VENKATESH,J

RS

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