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Crl.O.P.No.28029 of 2023
and Crl.M.P.No.81 of 2024

C.V.KARTHIKEYAN,J.

The petitioner/A1 who was arrested and remanded to judicial custody on 17.07.2023 seeks bail in C.C.No.9623 of 2021 now pending before the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases and CBCID Metro Cases, Egmore, Chennai. The charges have been framed against him under Sections 409, 420 IPC @ 409, 420 r/w 109 and 34 of IPC.

2.The earlier application seeking bail came up for consideration on 30.10.2023 in Crl.O.P.No.22584 of 2023. At that time the intervenor also entered appearance and filed Crl.M.P.No.16970 of 2023. This Court had observed as follows:

“2. It is the contention of the learned counsel for the petitioner that originally the petitioner/A1 was granted bail by the learned Principal Sessions Judge, Chennai on condition that the petitioner should deposit a sum of Rs.1/- crore. The petitioner had not deposited the said sum of Rs.1/- crore and therefore, the order of granting bail was cancelled. Without informing that to the Magistrate Court, bail was granted by the Metropolitan Magistrate, Egmore and on knowledge of that particular order,



that order of granting bail was also cancelled by the learned Principal Sessions Judge. However, the direction to deposit a sum of Rs.1/- crore, still remains. It has not been interfered with or set aside by any judicial order.

3.The learned counsel for the petitioner states that there was an occasion to file an application under Section 482 Cr.P.C and the matter was referred to Mediation and it is contended that the parties had entered into a settlement for total sum of Rs.75/- lakhs. It is also stated that out of Rs.75/- lakhs, the wife of the present petitioner, had deposited a sum of Rs.10/- lakhs and Rs.65/- lakhs is due and payable.

4.I am not able to understand as to how a settlement could override a judicial order.

5.It is also contended on behalf of the intervener who had entered appearance and also filed an application seeking intervention that the petitioner/A1 did not participate in the mediation process and it was only A2, who participated in the mediation process. It was also contended that even though some money has been deposited in the Court, there has been objection to withdraw the said amount. It is also stated that there is no progress in the trial at all owing to non-cooperation by the accused and that the matter is still pending for a period of two years.

6.The learned counsel for the petitioner stated that all the



parties including the intervener had participated in the mediation process.

7.The said statement is recorded.

8.Irrespective of all the above, the judicial order directing the petitioner to deposit a sum of Rs.1/- crore still stands and unless that is complied with or modified by an appropriate order, the consideration of bail can never arise.

9.Therefore, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is also closed.”

3.The learned counsel for the petitioner pointed out the judgment of the Hon'ble Supreme Court in **(2012) 1 SCC 40 (Sanjay Chandra Vs. Central Bureau of Investigation)**, wherein, it had been stated that bail is said to be a norm and an under-trial is not required to be in jail for even pending trial. The said dictum of the Hon'ble Supreme Court is correct. But however the petitioner herein has suppressed the material facts while obtaining bail, there was a condition to deposit a sum of Rs.1,00,00,000/- and he had failed to deposit the same. That factor was taken note of by the learned Principal Sessions Judge when the bail granted was cancelled. Thereafter, the petitioner did not appear before the trial Court necessitating issuance of Non Bailable warrant. Only on



execution of Non Bailable Warrant, the petitioner was taken into custody. With respect to suppression of the fact, it is fraud on the court which prejudices every solemn proceedings.

4. In ***S.P.Chengalvaraya Naidu (Dead) By LRs. Vs. Jagannath (Dead) By LRs*** and others reported in ***(1994) 1 SCC 1***, the Hon'ble Supreme Court held as follows:

“6. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. A litigant, who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.”

5. It is clear that once the petitioner had suppressed a material fact and not disclosed about the condition imposed, then he cannot seek indulgence of this Court.

6. Hence, this Criminal Original Petition stands dismissed.



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