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Crl.O.P.No.31409 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.31409 of 2024

Zachariah Paul

... Petitioner

Vs.

1. State of Tamil Nadu,
Represented by
The Inspector of Police,
Central Crime Branch,
Vepery, Chennai - 600 007.

2. M.Ilayaraja

3. Aswin Rao

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the Order, dated 08.11.2024 passed by the learned Trial Court Judge in Crl.M.P.No.48022 of 2024 in C.C.No.186 of 2022.

For Petitioner : Mr.Manuraj

For 1st Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to set aside the order dated 08.11.2024 passed by the learned Trial Judge in Crl.M.P.No.48022 of 2024 in C.C.No.186 of 2022.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent and perused the materials available on record.

3. Learned counsel for the petitioner/*de facto* complainant submitted that the accused/R3 was released on bail vide order of this Court dated 16.02.2021 with a condition to deposit the title deed of an immovable property worth Rs.3,00,00,000/- at the time of executing the sureties. The accused, in compliance of the above order, deposited title deed of an immovable property belonging to the second respondent herein. The second respondent, who is the surety filed an application before the Trial Court under Section 444 of Cr.P.C., in Crl.M.P.No.48022 of 2024 seeking discharge of sureties and the same



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was allowed by the trial court, even without giving notice to the petitioner herein ie., the *de facto* complainant in that case. He further submitted that the trial court ought to have called for the accused to produce new surety. Without following the procedure, the trial court allowed the petition and released the document, which causes prejudice to the petitioner.

4. The accused filed a petition seeking bail in Crl.O.P.No.1645 of 2021 before this Court and the same was granted on 16.02.2021 by imposing certain conditions. One of the conditions is that the accused/third respondent herein should deposit title deed of an immovable property document worth Rs.3,00,00,000/- at the time of executing the sureties.

5. After completion of investigation, charge sheet was filed and the same was taken on file in C.C.No.186 of 2022 on the file of the Metropolitan Magistrate for exclusive trial of CCB cases relating to cheating cases, Chennai and CBCID Metro cases, Egmore Chennai. The



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second respondent has given his property document as surety for the bail of the third respondent in C.C.No.186 of 2022, pending on the file of the said Court.

6. Subsequently, the second respondent herein has filed the application invoking Section 444 Cr.P.C., to release his document and to release him from the surety.

7. The trial court, by considering the change of circumstances and the behaviour of the accused, allowed the petition. Aggrieved over the same, the petitioner/ *de facto* complainant filed the above criminal original petition.

8. It is not the case of the petitioner that after obtaining order of bail, the accused is not co-operating for investigation or the accused is absconding or the accused is not appearing before the trial court, after filing of charge sheet.



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9. Hence, this Court does not find any reason to interfere with the impugned order of the learned Magistrate. In view of the same, this Criminal Original Petition is dismissed. However, the Trial Court is directed to ensure that the accused has assets in his name till the disposal of the trial, otherwise, follow the procedures under Section 444(2) Cr.P.C.

17.12.2024

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Inspector of Police,
Central Crime Branch,
Vepery, Chennai - 600 007.

2. The Public Prosecutor,
High Court, Madras.

Copy to

The Metropolitan Magistrate for exclusive trial of CCB cases
(Relating to Cheating Cases in Chennai) and CBCID Metro cases,
Egmore, Chennai.



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P.VELMURUGAN, J.

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