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CRL M.P. No.16671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2025

CORAM

The Hon'ble Mr.Justice P.DHANABAL

Crl. M.P. No.16671 of 2024
in Crl. O.P. No.15074 of 2024

M. Subramanian S/o. Muthukrishnan Petitioner / Intervenor /
Defacto complainant.

VS

1. State represented by:-

The Inspector of Police,
Tambaram City - CCB Land Grabbing,
Chennai. ... 1st Respondent / Respondent/
Complainant

2. M. Thiyagarajan Pillai

S/o. Manickam Pillai ... 2nd Respondent / Petitioner /
1st Accused

PRAYER:- The Criminal Original Petition is filed under Section 483(3)
of B.N.S..S. praying to cancel the bail granted to the 2nd respondent / 1st
Accused vide order passed in Crl. O.P. No.15074 of 2024 dated
12.08.2024.



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For Petitioner : Mr. T.L. Thirumalaisamy

For Respondents : Mr. S. Balaji [for R1]
Govt. Advocate (Crl. Side)

Mr. R. Vivekananthan [for R2]

ORDER

This petition has been filed by the petitioner to cancel the bail granted to the 2nd respondent in Crl. O.P. No.15074 of 2024 dated 12.08.2024.

2. The learned counsel appearing for the petitioner would contend that he is the defacto complainant in this case. The 2nd respondent and his sister Mangai Lakshmi are running a business in the name and style of M/s. Kirabes Flex Board Pvt. Ltd.,. The 2nd respondent is also running an another company along with his sister and sister's daughter Ramya in the name and style of M/s. Ramya Enterprises at Kilpauk, Chennai. The above said persons introduced one Lakshmanan @ Leghan, Sangana Kulam, Nanguneri Taluk to the petitioner/defacto complainant. The 2nd respondent and other accused have requested for financial assistance to develop their business, thereby he handed over a



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cheque dated 27.04.2015 for a sum of Rs.3,50,000/- in the name of the 2nd respondent and further transferred a sum of Rs.14,39,000/- to Ramya Enterprises on various dates. Thereafter, the defacto complainant had given a further sum of Rs.1,82,11,000/- as hand cash to the 2nd respondent and his partners by mortgaging his wife's jewels and totally, he had given a sum of Rs.2,00,00,000/- to the accused. Thereafter, the defacto complainant demanded security for the said amount. While so, the 2nd respondent executed a Mortgage Deed dated 15.05.2015 towards a land to an extent of 75 cents in S.No.199/3A2, 3B situated at Vandalur Village, Chengalpattu Taluk. Despite the demands made by the defacto complainant, the 2nd respondent failed to repay the amount. Therefore, he tried to sell the property which was mortgaged in his favour. At that time, while verifying the revenue records, the petitioner came to know that the property is a Government Poromboke, thereby, he lodged a complaint and based on his complaint, FIR has been registered in Cr. No.22 of 2024 for the offences under Sections 406, 420, 464 and 465 of IPC. The 2nd respondent had approached the Principal Sessions Court, Chengalpattu for grant of bail and the same was dismissed. Thereafter, he



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approached this Court and this Court granted interim bail and referred the matter for mediation. As per the mediation proceedings, they entered into compromise and the 2nd respondent accepted to return a sum of Rs.70 lakhs by way of 6 instalments and issued 6 post dates cheques. In the meantime, he was released on bail vide order dated 12.08.2024. The 1st cheque for a sum of Rs.10 lakhs was presented on 08.08.2024 and the same was honoured. When the 2nd cheque for a sum of Rs.10 lakhs was presented on 08.09.2024, it was returned as 'insufficient funds'. Further, he presented the another cheque for a sum of Rs.15 lakhs on 10.10.2024 and the same was also returned with endorsement "alteration require drawers authentication". Again on 16.10.2024, he presented the 2nd cheque for collection and the same was again returned as 'funds insufficient'. Therefore, the 2nd respondent failed to comply the condition and hence the bail granted to the 2nd respondent / accused has to be cancelled.

3. The learned counsel appearing for the 2nd respondent / accused would contend that the the petitioner has lodged a false complaint against



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the 2nd respondent and there were business transactions between the parties. The 2nd respondent was arrested and remanded to judicial custody on 24.05.2024. Thereafter, he filed a petition for bail before this Court and the same was allowed. Earlier this Court referred the matter for mediation and before the Mediation, settlement was arrived at between the parties. However, at the time of granting bail, this Court recorded that the 2nd respondent has given cheques to the defacto complainant for further payment and already granted interim bail, thereby taking into consideration the period of incarceration, this Court granted bail to the 2nd respondent. Already the 2nd respondents issued cheques to the defacto complainant and the same was also encashed by the petitioner. Thereafter, if at all, the cheques were dishonoured, the petitioner shall initiate separate proceedings and that is not a ground to cancel the bail granted to the 2nd respondent. Therefore, prayed to dismiss the petition for cancellation of bail.

4. The learned Government Advocate (Criminal side) appearing for the 1st respondent would submit that this Court initially granted



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interim bail and thereafter, settlement was arrived at between the parties before mediation and thereafter bail was granted to the 2nd respondent on conditions.

5. Heard both sides' arguments and perused the materials available on record.

6. In this case, this Court has granted bail to the 2nd respondent. According to the petitioner, the 2nd respondent agreed to pay amount of Rs.70 lakhs and also gave 6 post dated cheques. The 1st cheque for Rs.10 lakhs was encashed by the petitioner. The cheques issued for the remaining amount, were dishonoured. Therefore, the defacto complainant has approached this Court on the ground that the 2nd respondent / accused has not settled the amount as agreed and breached the condition. The issuance of cheques has not been denied by the 2nd respondent. However, only because of return of cheques, the Court cannot cancel the bail granted to the 2nd respondent on the sole ground. The petitioner can seek his remedy in the manner known to law for the



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dishonoured cheques. Therefore, there are no any sufficient grounds to cancel the bail granted to the 2nd respondent.

7. In view of the above said observations, this Court is of the opinion that this petition has no merits and deserves to be dismissed.

8. Accordingly, the Criminal Miscellaneous Petition is dismissed.

22.01.2025

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
mjs

To

1. The Public Prosecutor, High Court, Madras.
2. The Inspector of Police, Tambaram City - CCB Land Grabbing, Chennai.



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P.DHANABAL,J
mjs

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