

Raja Vs. State rep. by The Inspector of Police, Dindigul District

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Court : Chennai Madurai

Decided On : Jul-28-2016

Judge : The Honourable Ms. Justice V.M. Velumani

Appeal No. : Crl.O.P(MD)No. 13071 of 2016

Appellant : Raja

Respondent : State rep. by The Inspector of Police, Dindigul District

Judgement :

(Prayer:Criminal Original Petition is filed under Section 439(1)(b) of the Criminal Procedure Code praying to set aside the onerous condition imposed in the impugned order dated 24.06.2016 made in Crl.M.P.No.1679 of 2016 in C.C.No.19 of 2016 by the learned Judicial Magistrate, Natham, Dindigul District.)

1. This petition has been filed praying to set aside the condition imposed on the petitioner in the order dated 24.06.2016 made in Crl.M.P.No.1679 of 2016 in C.C.No.19 of 2016 by the learned Judicial Magistrate, Natham, Dindigul District.

2. It is averred in the petition that the petitioner has been arrayed as accused in Crime No.40 of 2016 on the file of the respondent police for the offence punishable under Section 379 IPC. The petitioner herein has moved a petition before the learned Judicial Magistrate, Natham, Dindigul District in Cr.M.P.No.1679 of 2016 for bail and the learned Judicial Magistrate, Natham, Dindigul District, after hearing both sides, enlarged the petitioner on bail, vide order dated 24.06.2016 on the

following conditions:

- (i) the petitioner shall execute a bond for a sum of Rs.30,000/- (Rupees ten thousand only) with two sureties each for a like sum.
- (ii) the solvency certificates produced by the sureties must be signed by a revenue official, not below the rank of Deputy Tahsildar.
- (iii) the solvency certificate shall be produced along with Encumbrance Certificate for a period of 12 years.
- (iv) the sureties must produce the Original Sale Deed for the properties mentioned in the solvency certificate before the Court.
- (v) the sureties must produce the Nativity Certificate obtained from Village Administrative Officer.
- (vi) the petitioner shall report before the respondent police daily at 09.00 a.m. until further orders.

According to the petitioner, the condition Nos.3 and 4 mentioned in the order passed by the learned Judicial Magistrate are onerous and therefore the petitioner has come up with the present petition.

3. The learned counsel for the petitioner submitted that the conditions directing to furnish Encumbrance Certificate and Original Title Deeds of the proposed sureties are onerous and in fact the imposition of the said conditions amounts to denial of bail and in number of Judgments, the Hon'ble Supreme Court and this Court held that while enlarging the accused on bail, onerous condition should not be imposed and prayed for setting aside the said conditions.

4. The learned Government Advocate (Crl.Side) submitted that after committing the offence, the petitioner was absconding and charge sheet has been filed and taken on file in C.C.No.19 of 2016 and therefore non-bailable warrant was issued against him and he was secured only after 45 days and remanded to custody and therefore the said conditions were imposed and the same require no interference.

5. From the materials available on record, it is seen that the learned Judicial Magistrate, Natham, Dindigul enlarged the petitioner on bail vide order dated 24.06.2016 made in CrI.M.P.No.1679 of 2016. The learned Judicial Magistrate imposed the conditions directing to furnish Encumbrance Certificate and Original Title Deeds of the proposed sureties along with the other conditions. The learned Judicial Magistrate imposed conditions to the effect that the petitioner shall execute a bond for a sum of Rs.30,000/- (Rupees ten thousand only) with two sureties each for a like sum and the petitioner shall report before the respondent police daily at 09.00 a.m. until further orders, along with other conditions.

6. Considering the above said facts, this Court is inclined to set aside the condition Nos.3 and 4 directing to furnish Encumbrance Certificate and Original Title Deeds of the proposed sureties are set aside and the other conditions imposed in the order dated 24.06.2016 made in CrI.M.P.No.1679 of 2016 by the learned Judicial Magistrate, Natham, Dindigul District are confirmed and the Criminal Original Petition is disposed of accordingly.

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