

WEB COPY



Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021

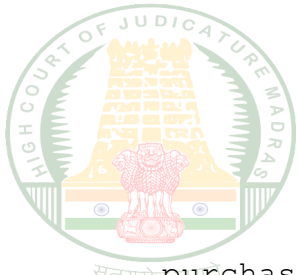
Cr1MP(MD)No.10321 of 2022
in
Cr1OP(MD)No.14255 of 2021

B. PUGALENDHI , J.

This application is moved by the State to cancel the bail granted to the respondent in Cr1.OP(MD)No.14255 of 2021 dated 08.10.2021 that the respondent has influenced the *defacto* complainant to retract his earlier stand and thereby the quash application has been moved to quash the criminal case pending against this petitioner in CC.No.87 of 2022 before the learned Judicial Magistrate No.I, Madurai.

2.The petitioner, while was working as Inspector of Police, Nagamalai Pudukottai Police Station, Madurai, has indulged in misuse of her power and thereby extorted money from one Arsath. Based on the complaint of the *defacto* complainant / Arsath, a case was registered as against this petitioner in Crime No.18 of 2021 by the Inspector of Police, District Crime Branch, Madurai on 27.07.2021 for the offence under Sections 384, 420, 409 and 506(ii) IPC.

3.The case in Crime No.18 of 2021 is that one Arsath / *de facto* complainant a resident of Ilayankudi is a Tailor by profession at Villapuram. His owner gave Rs.4 Lakh for



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव जयते purchasing raw materials for job work. The defacto complainant has borrowed a sum of Rs.4 lakh from one of his relatives and another sum of Rs.2 lakh from one Baskaran and was waiting for his friend near Shanthi Lodge at Nagamalai Pudhukottai. At that time the police vehicle intercepted his vehicle and the Driver of the police vehicle and the Inspector of Police/ the respondent have taken away the money from the defacto complainant and other person one Karthick, intimidated them that they would foist a case, took them in the police jeep, dropped them after half a kilo metre away and directed to receive the money in the police station on the next day. This occurrence took place on 05.07.2021 and on 06.07.2021 the defacto complainant called the police station over phone and he was directed to Tallakulam Police Station, where the respondent stated that there was no money in the bag recovered from him and intimidated him that if he insists for the money, then he would be foisted with a criminal case for possession of Kanja. Therefore the defacto complainant lodged a complaint before the Superintendent of Police, Madurai. The Superintendent of Police, Madurai forwarded the complaint to the Additional Superintendent of Police, who after ascertaining the truth of the complaint submitted a report dated 13.07.2021, based on the report of the Additional Superintendent of Police, a case was registered as against one



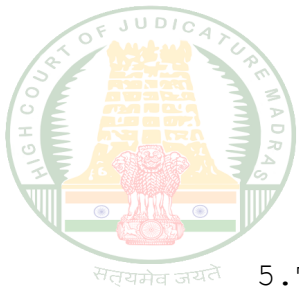
**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव Palpandi and four others in Crime No.18 of 2021 on 27.07.2021

for the offence under Sections 384, 420, 409 and 506(i) IPC. The respondent/ A5 was arrested by the respondent Police on 26.08.2021 and this Court considering her position that she was working as an Inspector of Police and also the period of incarceration, by order dated 08.10.2021 granted bail to the respondent with certain conditions and one of the conditions is that the petitioner should not misuse the personal liberty granted to her and indulge in further offence and shall not tamper with the evidence during the trial and in case of breach of any conditions, the trial court was also directed to take appropriate action as against the accused as per the directions of the Hon'ble Supreme Court in P.K.Shaji Vs State of Kerala [(20050 AIR SCW 5560)].

4.The Investigation in Crime No.18 of 2021 was conducted by the Deputy Superintendent of Police, District Crime Branch and final report was also filed as against the respondent and other accused before the learned Judicial Magistrate, Madurai for the offence under Sections 420, 384, 389, 506(i) and 120(b) IPC and the same was taken on file in CC.No.87 of 2022 on 19.01.2022.

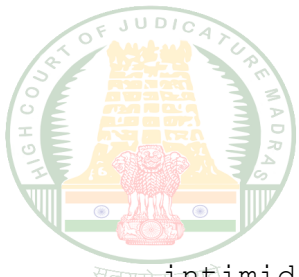


**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

5.The accused in CC.No.87 of 2022 have filed an application to quash the proceedings pending against them in CC.No.87 of 2022 on the ground of compromise that the issue between the defacto complainant and the accused was settled by way of compromise and the defacto complainant has also filed an affidavit that he is not interested to proceed with the case as against the accused that it is only a money transaction, which has been exaggerated. Considering the nature of the offence, this Court was not inclined to entertain the said application and it was dismissed as withdrawn on 04.08.2022. Thereafter, the State has filed this application to cancel the bail granted to the respondent on the ground that the respondent has misused the personal liberty granted to her, violated the conditions and tampered with the witness.

6.The learned Additional Public Prosecutor appearing for the state submits that the respondent is a suspended police officer indulged in the act of either by inducing or by intimidating the defacto complainant, made him to file the affidavit retracting his earlier statement and attempted to nullify the final report filed by the Deputy Superintendent of Police, District Crime Branch, Madurai that there is no direct material available as on date that the defacto complainant was



Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021

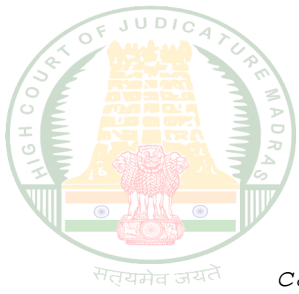
सत्यमेव जयते
intimidated or influenced, the respondent / accused is the
beneficiary on account of the same.

WEB COPY

7.The learned Additional Public Prosecutor has also relied on the judgment of the Hon'ble supreme Court in State (Delhi Administration) Vs Sanjay Gandhi reported in 1978 2 SCC 411, wherein it is held as follows:

"13.Rejection of bail when bail is applied for is one thing: Cancellation of bail already granted its quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain hostile cannot itself justify the inference that the accused has won them over.

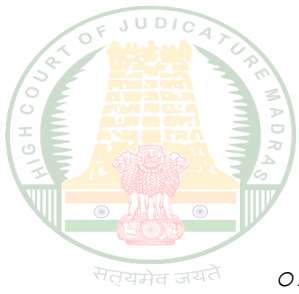
14.Before we go to the facts of the case, it is necessary to consider what precisely is the nature of the burden which rests on the prosecution in an application for cancellation of bail. It is necessary for the prosecution to prove by a mathematical certainty or even beyond a reasonable doubt that the witnesses have turned hostile because they are won over by the accused? We think not. The issue of cancellation of bail



**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

WEB COPY

can only arise in criminal cases, but that does not mean that every incidental matter in a criminal case must be proved beyond a reasonable doubt like the guilt of the accused. Whether an accused is absconding and therefore his property can be attached under Section 83 of the Criminal Procedure Code, whether a search of person or premises was taken as required by the provisions of Section 100 of the Code, whether a confession is recorded in strict accordance with the requirements of Section 164 of the Code and whether a fact was discovered in consequence of information received from an accused as required by Section 27 of the Evidence Act are all matters which fall peculiarly within the ordinary sweep of criminal trials. But though the guilt of the accused in cases which involve the assessment of these facts has to be established beyond a reasonable doubt, these various facts are not required to be proved by the same rigorous standard. Indeed, proof of facts by preponderance of probabilities as in a civil case is not foreign to criminal jurisprudence because, in cases where the statute raises a presumption of guilt as, for example, the Prevention of Corruption Act, the accused is entitled to rebut that presumption by proving his defence by a balance of probabilities. He does not have to establish his case beyond a reasonable doubt. The same standard of proof as in a civil case applies to proof of incidental issue involved in a criminal trial like the cancellation



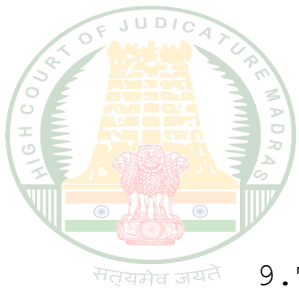
**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

of bail of an accused. The prosecution, therefore, can establish its case in an application for cancellation of bail by showing on a preponderance of probabilities that the accused has attempted to tamper or has tampered with its witnesses. Proving by the test of balance of probabilities that the accused has abused his liberty or that there is a reasonable apprehension that he will interfere with the course of justice is all that is necessary for the prosecution to do in order to succeed in an application for cancellation of bail.

15. Our task therefore is to determine whether, by the application of the test of probabilities, the prosecution has succeeded in proving its case that the respondent has tampered with its witnesses and that there is an reasonable apprehension that he will continue to indulge in that course of conduct if he is allowed to remain at large."

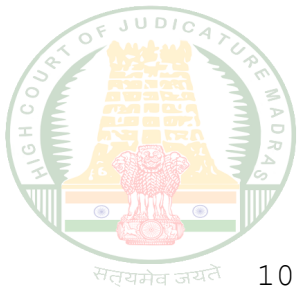
8.The learned Additional Public Prosecutor has also pointed out that though the final report was filed on 14.12.2021 and was taken on file on 19.01.2022, copies could not be served by the trial Court that the accused one way or the other protracting the case before the trial Court. The respondent/ A5 has appeared only on 24.06.2022 and she is evading the summons from the trial Court.



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

9.The learned Counsel for the respondent submits that though the final report was filed in the year 2021, taken on file during January 2022, the respondent received summons only in the month of June 2022 and immediately she appeared on 24.06.2022. The petitioner in the application for cancellation of bail mentioned both address and the respondent is permanently residing at Plot No.14, Door No.2/3 F-2, Thiruvalluvar, 5th street, Sasi Nagar West, Anantha Nagar, Thabal Thanthi Nagar extension, Anaiyur, Madurai. The petitioner having knowledge about her permanent address has served the summon only in the month of June 2022 and therefore, they cannot attribute any motive towards the respondent that she evaded the summons. She has been regularly appearing before the Court from 24.06.2022 in all the hearings without fail. He further submits that the respondent/ A5 has fully co-operated for the investigation and fully complied with the orders of this Court dated 08.10.2021 in Cr1OP(MD)No. 14255 of 2021. The respondent is not responsible for the memo filed by the defacto complainant and there is no complaint whatsoever from the defacto complainant that he was subjected to any threat or coercion for filing the said memo of compromise.



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

10.The learned Counsel further submits that the offences under Sections 420, 384, 389, 506(i) and 120(b) IPC are compoundable in nature in this Court and Section 320 CrPC enables the parties to compound these offences. Even when non compoundable offences are made out, then the Court in its discretion can entertain the quash application, when the parties have amicably settled their issues. This Court and the Hon'ble Supreme Court have entertained similar such applications. The memo of compromise in this case was filed by all the accused, however, the department has singled out this respondent and filed the application for cancellation of bail as against this respondent alone. Even in this petition there is no specific averment that this petitioner met the defacto complainant, influenced or parted with money to file the compromise memo in Cr1.OP(MD)No.14120 of 2022. In the absence of any specific averment that this respondent has indulged in any such activity in influencing the defacto complainant to file the above compromise memo, this application cannot be maintained and moreover, the defacto complainant has not been made as party to this petition. The learned Counsel further submits that the cancellation of bail is entirely different from granting of bail and the statement under Section 161 can be rescinded at any time and therefore Section 162 was incorporated. The learned Counsel has relied on the following



**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

सत्यमेव judgments in support of his contention:

WEB COPY

i.Zahur Haider Zaidi Vs Central Bureau of Investigation
(2019) 20 SCC 404;

ii.M.Sahul Hameed Vs Jamal @ Jamaluddin & Others 2009
(3) MWN (Cr) 212;

iii.Union of India Vs K.A.Najeeb (2021) 3 SCC 713;

11.This Court considered the rival submissions and perused the materials placed on record.

12.This application is moved by the State to cancel the bail granted to the 5th respondent that she violated the conditions of bail order dated 08.10.2021 and indulged in influencing the witnesses and attempted to evade the trial. The respondent is a suspended Inspector of Police of Nagamalai Pudukottai Police Station and she was arrested in connection with Crime No.18 of 2021 based on the complaint of one Arshad.

13.The nature of the complaint is that on 05.07.2021 when the defacto complainant was waiting along with his relative one Pandi with money, the Police surrounded him recovered the money of Rs.10 Lakh, took him in the police jeep, intimidated that they are going to foist a case, thereafter let him in

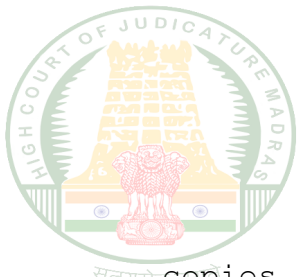


**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव जयते another place and directed him to come and collect the money in the police station on the next day. On the next day when the defacto complainant attempted to receive the money, he was intimidated that he should not insist for money, or else, a criminal case for possession of Kanja would be foisted against him. Hence he lodged a complaint on 06.07.2021 before the Superintendent of Police, Madurai, who in turn directed the Additional Superintendent of Police for enquiry and he has conducted preliminary investigation and submitted his report on 13.07.2021. Subsequently a case was registered on 27.07.2021. The respondent was arrested on 26.08.2021 and this Court granted bail to the respondent by order dated 08.10.2021 in Cr1OP(MD)No.14255 of 2021 with certain conditions and one of the conditions is that she should not misuse the personal liberty granted to her and should not indulge in tampering with the evidence or the witness during the bail.

14.The investigation in Crime No.18 of 2021 was carried out by the Deputy Superintendent of Police, District Crime Branch, Madurai and final report was filed before the learned Judicial Magistrate No.I, Madurai on 14.12.2021 for the offence under Sections 420, 384, 389, 506(i) IPC r/w Section 120(b) IPC as against this respondent and four others and also taken on file in CC.No.87 of 2022 on 19.01.2022. However the



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव जयते copies were not furnished to the accused till June 2022. In

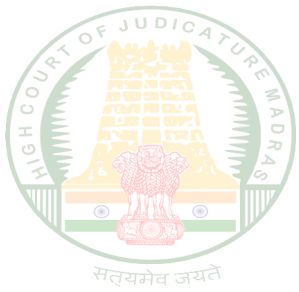
the meantime, the respondent along with other accused moved an application in Cr1OP(MD)No.14120 of 2021 to quash the final report in CC.No.87 of 2022 on the ground of compromise, wherein the defacto complainant has filed an affidavit, which reads as follows:

"Affidavit of the second respondent/ Defacto complainant

I, K.Arshath, S/O.A.Kongan, Hindu aged about 34 years, residing at Indra Nagar, Ilayankudi, Sivagangai District, now temporarily come down to Madurai, do hereby solemnly affirm and sincerely states as follows:

I. I submit that I am the 2nd respondent herein and defacto complainant and as such as I am well acquainted with the facts and circumstances of the case.

2.I humbly submit that the petitioners have preferred this memorandum criminal original petition seeking a relief sought for quash the charge sheet in CC.No.87 of 2022 on the file of the learned Judicial Magistrate No.I, Madurai and we have now compromised and settled the dispute amicably.



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

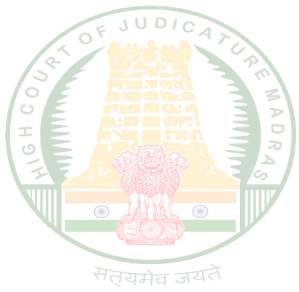
3.I submit that as stated in the Criminal Original Petition, a private money transactions with petitioners was exaggerated and improved by giving a criminal colour and the entire dispute could have been settled in the civil court. However, due to frustration a case in Crime No.18 of 2021 was registered.

4.I submit that I am the defacto complainant in the above said case and now I do not want to proceed further with the case as against the petitioners and we have compromised the entire issue, thus I have no objection to quash the proceedings as against the petitioners.

Therefore, it is prayed that this Hon'ble Court may be pleased to accept my affidavit and passe an order as prayed for in the main petition and such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

15.This respondent and the other accused have signed the above compromise memo along with defacto complainant.

16.In the case of Inspector of Police, Velacherry Police Station Vs SP.Rajagopal [MANU/TN/1362/2003] in similar application to cancel the bail, this Court has discussed the guidelines issued by the various courts to cancel the bail, which are extracted hereunder:



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

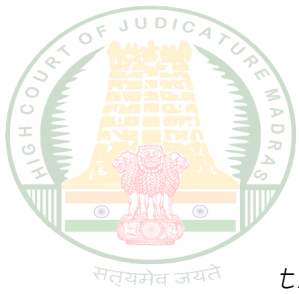
WEB COPY

"12. Before dealing with the merits of the respective contentions, it would be appropriate to refer to the guidelines given by the various Courts in the decisions cited supra, while considering the application for cancellation of bail. The guidelines are these:

A) As a fair trial is the main objective of the criminal procedure, any threat to the continuance of a fair trial must be immediately arrested and the smooth progress of a fair trial must be ensured.

B) A fair trial has naturally two objects in view; it must be fair to the accused and must also be fair to the prosecution. The test of fairness in a criminal trial must be judged from this dual point of view. It is therefore of the utmost importance that, in a criminal trial, witnesses should be able to give evidence without any inducement or threat either from the prosecution or the defence. A criminal trial must never be so conducted by the prosecution as would lead to the conviction of an innocent person; similarly the progress of a criminal trial must not be obstructed by the accused so as to lead to the acquittal of a really guilty offender.

C) If an accused person, by his conduct, puts the fair trial into jeopardy, it would be



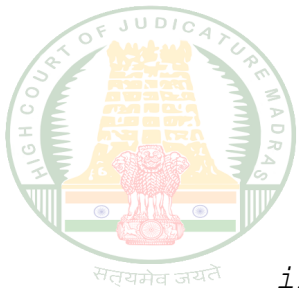
**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

WEB COPY

the primary and paramount duty of criminal Courts to ensure that the risk to the fair trial is removed and criminal Courts are allowed to proceed with the trial smoothly and without any interruption or obstruction.

D) The question of cancellation of bail under [Section 439\(2\)](#) Cr.P.C. of the Code is certainly different from admission to bail under [Section 439\(1\)](#) Cr.P.C. Rejection of bail when bail is applied for is one thing, cancellation of bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.

E) It is not necessary for the prosecution to prove the threatening incident by a mathematical certainty or even beyond a reasonable doubt. In a matter of cancellation of bail, every incidental matter in a criminal case need not be proved beyond a reasonable doubt like the guilt of the accused. Though the guilt of the accused in cases which

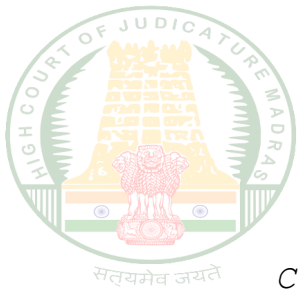


**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

involve the assessment of facts has to be established beyond a reasonable doubt, these various facts are not required to be proved by the rigorous standard for cancellation of bail. The prosecution, therefore, can establish its case in an application for cancellation of bail by showing on a preponderance of probabilities that the accused has attempted to tamper or has tampered with its witnesses. Proving by the test of balance of probabilities that the accused has abused his liberty or that there is a reasonable apprehension that he would interfere with the course of justice, is all that is necessary for the prosecution to do in order to succeed in an application for cancellation of bail.

F) The power to cancel the bail and to take back the accused in custody who has been enlarged on bail has to be exercised with care and circumspection. This power, though of an extra-ordinary nature, is meant to be exercised in appropriate cases when, by a preponderance of probabilities, it is clear that the accused is interfering with the course of justice by tampering with witnesses. Refusal to exercise that wholesome power in such cases, few though they may be, will reduce it to a dead letter and will suffer the



**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

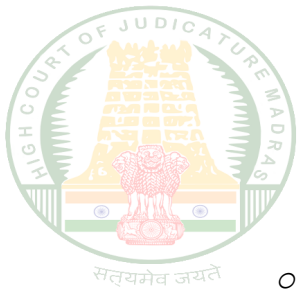
WEB COPY Courts to be silent spectators to the
subversion of the judicial process.

G) The relevant factor, while exercising the power, which should be taken by the court into consideration for cancellation of bail is to see whether from the affidavit filed by the prosecution has the prosecution by a preponderance of probability, made clear whether the accused are interfering with the course of justice by tampering with the witnesses or have contravened the conditions imposed on them and thereby abused the liberty granted by the court.

H) Once an accused has been enlarged on bail, his liberation from custody cannot be lightly interfered with, but this does not mean that even in a proper case where ends of justice would be defeated unless the accused is committed to custody, power of the High Court to cancel the bail cannot be exercised.

I) Rejection of bail stands on one footing, but cancellation of bail is a harsh order because it interferes with the liberty of the individual. Hence, it must not be lightly resorted to.

J) Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and

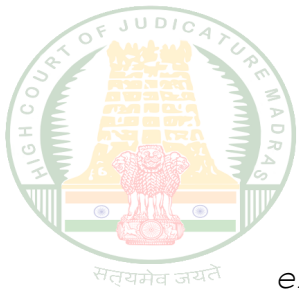


**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

WEB COPY

overwhelming circumstances are necessary for an order of cancellation of the bail already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or abuse of the concession granted to the accused in any manner.

50. *A fair trial is the main objective of the criminal procedure. It must be fair to the accused as well as to the prosecution. In a criminal trial, witnesses should be able to give evidence without any inducement or threat either from the prosecution or the defence. A criminal trial must never be so conducted by the prosecution as would lead to the conviction of an innocent person. Similarly, the progress of a criminal trial should not be obstructed by the accused so as to lead to the acquittal of a really guilty offender. If any conduct on the part of an accused person is likely to obstruct a fair trial, there is occasion for the exercise of the power of this Court to secure the ends of justice. Any threat to the continuance to a fair trial must be immediately arrested and the smooth progress of a fair trial must be*



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

ensured. This can be done only by the
WEB COPY cancellation of bail."

17.The learned Counsel for the respondent has referred to the judgment of the Hon'ble Supreme Court reported in (1978) 2 SCC page 411 and submits that mere turning the witnesses as hostile not enough to cancel the bail. The involvement of the accused in bring about such results must be shown as material ground. He relied on paragraph No.13 of the said judgment, wherein it has been held as follows:

"13.Rejection of bail when bail is applied for is one thing: Cancellation of bail already granted its quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain hostile cannot itself justify the inference that the accused has won them over."

18.The Complaint in this case was lodged before the superintendent of Police, Madurai, it was verified by the Additional Superintendent of Police, the case was registered pursuant to the report of the Additional Superintendent of

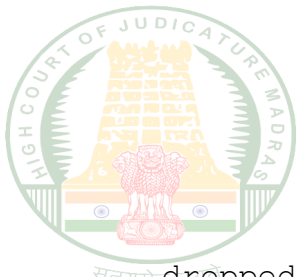


**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव जयते Police, dated 13.07.2021 and also investigated by the Deputy Superintendent of Police. The occurrence has taken place on 05.07.2021, the complaint was lodged on 06.07.2021 and the case was registered on 27.07.2021. Even thereafter, the respondent was not arrested only on the directions of this Court, the respondent was arrested. Though the final report was filed on 02.12.2021, taken on file on 19.01.2022, the police took nearly five months to serve notice on the respondent. The respondent claims that summon was served on 15.06.2022 and thereafter she is appearing before the trial Court regularly. The police took not less five months to serve the summon on the respondent. Though the respondent claim that this accused has shifted her residence, this Court is unable to understand whether the police is not in a position to identify the place of the suspended employee, who is drawing subsistence allowance. From the above this Court presume that the respondent is enjoying the privilege from the Department.

19.The defacto complainant has lodged a specific complaint as against this respondent that when he was waiting for one Baskaran with a sum of rupees Six Lakh on 05.07.2021, near Shanthi lodge, Nagamalai Pudukottai, the Inspector of Police/ respondent herein along with her team had intercepted him, taken him in the police jeep, taken away the money and

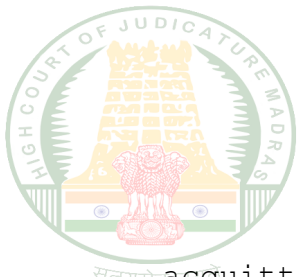


**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

dropped him at a distant place with intimidation that if he raises any issue, a criminal case would be foisted against him. This complaint, which was lodged against the police officer has been rightly handled by the Superintendent of Police and entrusted for preliminary investigation to an Additional Superintendent of Police. After ascertaining the truth through the CCTV footages and the witnesses, a case was registered only on 27.07.2021 after a period of 14 days. The defacto complainant, who made a specific complaint as against this respondent has now filed an affidavit that it is only a money transaction between them. With this averment, a joint compromise memo has been filed by all the accused. The delay in serving copies and the time at which the quash application has been filed in this case have to be taken note of. A fair trial is the main objective of the criminal justice delivery system.

20.As observed by this Court in the above referred decisions, a fair trial must be fair to the accused as well as to the prosecution and therefore, fairness in the criminal trial must be judged from both sides and the witnesses should be able to give evidence without any inducement or threat. To ensure this, the witness protection scheme has been introduced. Even then most of the criminal cases are ended in

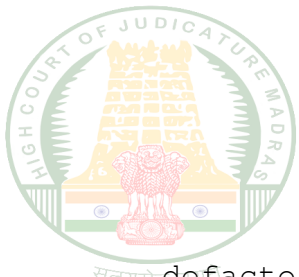


**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव जयते acquittal due to non disclosure of truth by the witnesses to the trial. At the same time, there cannot be any conviction on the innocent person. Therefore, the prosecution is expected to prove its case beyond reasonable doubt. If any accused by his conduct obstructs the fair trial, it is the duty of the Court to arrest the same and to ensure the fair trial.

21.The nature of the complaint, the manner in which the case was registered, the manner in which the trial is protracted, the timing at which the joint compromise memo has been filed and the contents of the affidavit filed by the defacto complainant would *prima facie* make out a case as against the accused that there was an attempt to jeopardies the trial. Therefore, the investigating agency has filed this application for cancellation of bail. The prosecution has also established through preponderance of probabilities that the accused have attempted to tamper the defacto complainant. The defacto complainant, who lodged a complaint before the Superintendent of Police on 06.07.2021, has now by backtracking filed an affidavit in the quash petition. The quash petition has been filed by all the five accused. This respondent is the fifth accused. As rightly pointed by the learned Counsel for the respondent there is no specific averment as against this respondent as, she has contacted the



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

defacto complainant at any point of time or in any manner either has influenced, persuaded or intimidated the defacto complainant to take such a stand in the affidavit filed in the quash petition. Therefore this Court is unable to take any stringent action as against this respondent by cancelling the bail granted to her. However this Court cannot be a mute spectator to any subversion of the judicial process and it is the duty of the Court to ensure fair trial and therefore, this petition is disposed of with the following directions:

i.The Inspector General of Police (South Zone) shall to constitute a special team headed by an Additional Superintendent of Police or a Deputy Superintendent of Police to ascertain whether the accused in CC.No.87 of 2022 on the file of the learned Judicial Magistrate No.I, Madurai in any manner have attempted to influence the defacto complainant or any other witnesses in Crime No.18 of 2021 by verifying, their call details and by conducting proper investigation.

ii.If any attempt has been made by any of the accused, to tamper the witnesses in CC.No.87 of 2022, the petitioner / investigation officer shall register a separate case for the offence made thereon as against the accused concerned.



**CrIMP(MD)No.10321 of 2022 in
CrIOP(MD)No.14255 of 2021**

WEB COPY

iii.The Inspector General of Police (South Zone) shall also take necessary steps as required under the witness protection scheme to all the witnesses in CC No.87 of 2022 and shall ensure a fair trial in this case.

iv.The trial Court shall conduct a fair trial in CC.No.87 of 2022 and dispose it as expeditiously as possible.

22.Witnesses are the eyes and ears of the justice. Witnesses have to be instilled confidence to depose without any fear or favour before the Court. The witness protection scheme has been formulated with an object to safeguard the witnesses and their family members from intimidation and threat against their lives, reputation and property. Considering the facts and circumstances of this case, this Court deems it fit to issue a direction to the District Legal Services Authority, Madurai competent authority in the witness protection scheme, shall review this case and shall pass necessary witness protection order for the witnesses, who require or seek protection. The District Legal Services Authority shall inform each and every witness in CC.No.87 of 2022 on the file of the learned Judicial Magistrate No.1, Madurai about the witness protection scheme and their rights.



**Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021**

WEB COPY

सत्यमेव जयते The District Legal Services Authority shall also monitor its implementation and shall review on monthly basis, with witness protection cell all necessary protection measures, which are required under the scheme shall be scrupulously followed and the witnesses must be provided with the confidence to come forward to depose before the trial Court.

24.02.2023

dsk

To

- 1.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 2.The Deputy Superintendent of Police
District Crime Branch,
Madurai, Madurai District.

COPY to

- 1.The Inspector General of Police (South Zone),
Madurai.
- 2.The District Legal Services Authority,
Madurai.
- 3.The Judicial Magistrate No.1,
Madurai.



WEB COPY

VERDICTUM.IN



Cr1MP(MD)No.10321 of 2022 in
Cr1OP(MD)No.14255 of 2021

B.PUGALENDHI, J.

dsk

Cr1MP(MD)No.10321 of 2022
in
Cr1OP(MD)No.14255 of 2021

24.02.2023