

**CrI.M.P. (MD)No.10188 of 2019**

**in**

**CrI.R.C. (MD)No.312 of 2018**

**B. PUGALENDHI, J.**

This petition is filed by the petitioner for relaxing the condition imposed by this Court in CrI.R.C. (MD)No.312 of 2018, dated 29.10.2018.

2. CrI.R.C. (MD)No.312 of 2018 was filed by the investigation agency as against the order passed by the learned Sessions Judge, Trichy, in Cr.M.P.No.247 of 2018, dated 24.05.2018, in and by which, the learned Sessions Judge has relaxed the conditions imposed upon the petitioner / accused in the bail application.

3. The facts leading to the filing of this case are as follows:

3.1. The petitioner / accused is a Priest and also running an Orphanage in the name and style of M/s.Mose Ministries at Trichy. A case was registered

against him in Crime No.1 of 2016, for the offence under Sections 120(b) r/w 361, 368, 201 IPC; Sections 34 r/w 33, 81 of Juvenile Justice (Care and Protection of Children) Act, 2015; and Sections 20 r/w 6 of Tamil Nadu Hostels and Homes for Women and Children (Regulations) Act, 2014. The petitioner was arrested in connection with this case and he was released on statutory bail, by the learned Chief Judicial Magistrate, Trichy, with a specific condition that he shall stay at Chennai and to report before the investigation officer daily, twice.

3.2. The petitioner, thereafter, moved an application in Cr.M.P.No.608 of 2018 to relax the condition imposed upon him and the learned Chief Judicial Magistrate, Trichy, has modified the condition to appear before the respondent Police daily, once, however, he has to stay at Chennai. After some time, the petitioner moved another application in Cr.M.P.No.247 of 2018 before the Vacation Sessions Court, Trichy, to relax the condition and the Vacation

Sessions Court, Trichy, by order dated 24.05.2018, has totally relaxed the condition imposed upon the petitioner.

3.3. Aggrieved over the same, the investigating agency has filed Crl.R.C.(MD)No.312 of 2018 before this Court and this Court, by order dated 29.10.2018, has set aside the order passed by the Vacation Sessions Court, Trichy and imposed the following conditions:

'i) The normal place of stay of the respondent shall be at Chennai. Whenever the respondent wants to leave Chennai, he can intimate the Investigation Officer and leave Chennai. This liberty cannot be misused by the respondent to tamper or influence the witnesses;

ii) The respondent shall not enter Trichy District for any reason;

iii) The respondent shall report before the Investigating Officer, as and when required;

iv) On breach of any of the aforesaid conditions, the learned trial Judge is entitled

*to take appropriate action, as if the conditions have been imposed and the respondent released on bail by the trial Judge himself as laid down by Hon'ble Supreme Court in P.K.Shaji vs State of Kerala, in 2005 AIR SCW 5560.'*

3.4. To relax the aforesaid conditions, the petitioner has moved the instant Criminal Miscellaneous Petition.

4. Mr.K.Samidurai, learned Counsel for the petitioner has raised the following points for the consideration of this Court.

4.1. The petitioner is a Senior Pastor in the Good Shepherd World Prayer Centre, Trichy and also the Chairman of the Good Shepherd Evangelical Mission Pvt., Ltd., Trichy. The Good Shepherd World Prayer Centre is the main Church at Trichy, having a total strength of about 4000 believers and visitors on every Sunday. In the Church, they are conducting four services on every Sunday and has other prayer meetings on Wednesdays and on Saturdays. As a Senior Pastor, it

is the petitioner's bounden duty to be present during these important events and bless the visitors and followers of the Church. In view of the condition imposed in the revision case, he was not able to perform his basic duties for the past four years and his presence is very much required at the Church to guide the fellow Pastors, Church Committee and to do the regular duties in the Church.

4.2. The condition imposed by this Court in the revision case was on 24.10.2018, ie., when the investigation was pending. However, the investigation agency has now completed the investigation and has filed a final report before the learned Chief Judicial Magistrate, Trichy and the same was also taken on file in C.C.No.2534 of 2019 and the petitioner was also issued with a summon dated 19.11.2019 for his appearance before the trial Court on 09.12.2019. Since the petitioner has to face the trial before the learned Chief Judicial Magistrate, Trichy, he has to engage a Counsel to make an effective defence in the

case instituted against him and therefore, his presence at Trichy is very much required, not only for doing his services in the Church, but also for defending the case instituted against him.

5. Per contra, Mr.N.Nagendran, learned Special Public Prosecutor appearing for CBI, opposed this application and submitted that this case was registered based on the directions issued by this court in W.P.(MD)Nos.16273 & 20895 of 2015 dated 20.01.2016 and that the allegations are serious in nature. According to the prosecution, the petitioner had procured 125 girl children from the areas in and around Usilampatti in Madurai District under the guise of preventing them from female infanticide and out of the 125 children, the whereabouts of 89 children alone are known and the petitioner has also attempted to illegally take the children to abroad.

6. The learned Special Public Prosecutor further submitted that the petitioner / accused, pending the

investigation, has attempted to abscond to Germany in the year 2018 and therefore, he was arrested on 27.10.2018 and his passport was also impounded. He further submitted that final report was filed as against the petitioner for Human Trafficking under Section 370 IPC.

7. At this juncture, the learned Counsel for the petitioner intervened and submitted that the petitioner never attempted to abscond and he appeared before the respondent Police for enquiry even before the date of arrest, i.e., on 27.10.2018. He further submitted that since the family of the petitioner is in Germany, he has proposed to go there, that too along with return tickets and it was not an attempt to evade from the due process of law. Moreover, his passport has also been seized by the investigation agency and also impounded and therefore, there is no possibility for the petitioner to abscond or evade and hence, the learned Counsel sought for indulgence.

8. This Court has paid it's anxious consideration to the rival submissions and also to the materials placed on record.

9. The petitioner is an accused in C.C.No.2534 of 2019. He was arrested and was also released on statutory bail. While releasing the petitioner on bail, the learned Chief Judicial Magistrate, Trichy, has imposed certain conditions that he should reside only at Chennai. However, the said conditions were totally relaxed and therefore, a revision case was filed as against the order of relaxation. This Court, while entertaining the revision case, has modified the order and imposed certain conditions (as extracted supra) and one among the conditions is that the petitioner shall reside at Chennai and shall not enter into Trichy District for any reason.

10. It appears, this order dated 24.10.2018 was passed by this Court pending the investigation and now, the investigation agency has completed the



investigation and has also filed the final report before the trial Court, wherein, summons have also been issued to the petitioner for his appearance on 09.12.2019. Therefore, the petitioner has to necessarily appear before the trial Court at Trichy and has to appoint a Counsel to establish his case.

11. Moreover, it is also pleaded that this petitioner is a Senior Pastor of a Church, which is having more than 4000 followers and visitors on every Sunday and that on every Sunday, they are conducting four services apart from the regular services and therefore, the learned Counsel prayed that his presence is very much required for the same.

12. Since the passport of the petitioner has already been impounded by the investigation agency, the possibility of the petitioner in absconding or evading the due process of law would not arise and as the final report has also been filed, there is no possibility for any tampering of the evidence.

13. Therefore, the condition imposed by this Court in Crl.R.C.(MD)No.312 of 2018, dated 29.10.2018, is modified to the effect that the petitioner shall visit and stay at Trichy. This liberty is granted only for enabling the petitioner to do his services in the Church and to face the trial proceedings. The petitioner shall not meet the in-mates of M/s.Mose Ministries, for any reason and if the petitioner breaches the said condition, the investigation agency shall take necessary action.

14. In fine, this Criminal Miscellaneous Petition is allowed in the above terms.

**22.11.2019**

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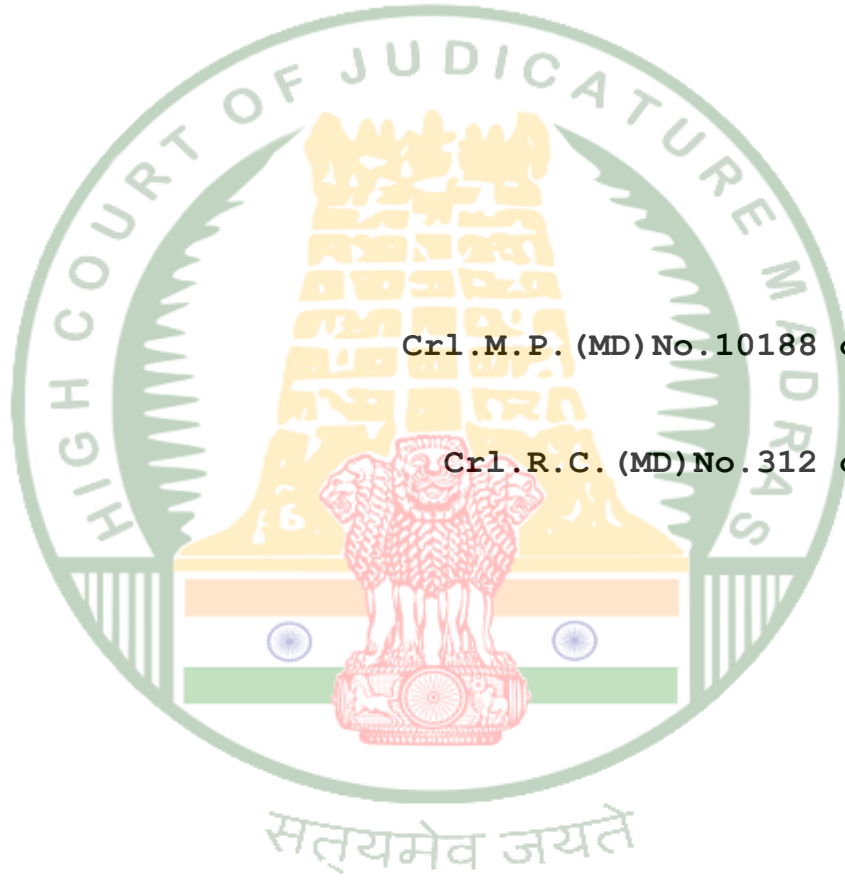
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