

CrI.O.P.No.23592 of 2013

<i>Reserved on</i>	<i>Pronounced on</i>
18-12-2015	22-12-2015

P.N.PRAKASH, J.

This petition seeking anticipatory bail is filed by S.Giri, Landlord of S.Srinivasan, the defacto complainant in Cr.No.137 of 2013 on the file of the Inspector of Police, P-4 Basin Bridge Police Station, Chennai.

2. It is the case of the prosecution that one S.Srinivasan (defacto complainant) was tenant under S.Giri in respect of residential portion, and that on 7.12.2012 he was physically dispossessed by his landlord S.Giri, in connection with which, on the complaint of S.Srinivasan, a petition enquiry was conducted in C.S.R.No.178 of 2012. Thereafter regular FIR was registered on 3.3.2013 in Cr.No.137 of 2013 against S.Giri for offences under Section 294(b), 341 and 506(i) IPC.

3. Initially S.Giri filed an application for anticipatory bail in CrI.M.P.No.98 of 2013 before the Principal Sessions Judge, Chennai, which was closed on the representation made by the Public Prosecutor that a petition enquiry was conducted and closed and no case has been registered against S.Giri. This order was passed on 4.1.2013 when regular FIR was not registered and only a petition enquiry in C.S.R.No.178 of 2012 was pending on the complaint dated 30.12.2012

given by S.Srinivasan.

4. As no regular FIR was registered, S.Srinivasan filed CrI.O.P.No.4194 of 2013 for a direction to register FIR on the complaint dated 30.12.2012 in C.S.R.No.178 of 2012. During pendency of that petition, respondent Police registered a regular FIR in Cr.No.137 of 2013 on 3.3.2013 against S.Giri.

5. S.Giri filed CrI.O.P.No.7361 of 2013 seeking anticipatory bail, which came up before this Court and was dismissed on 10.4.2013 after hearing all the parties including S.Srinivasan (defacto complainant). S.Giri filed second anticipatory bail application in CrI.O.P.No.12718 of 2013 and after hearing all the parties, this Court granted anticipatory bail by order dated 15.5.2013.

6. It is seen that subsequently the respondent Police altered the FIR in Cr.No.137 of 2013 by including Sections 457 and 380 IPC and also added Lingeswari (wife of Giri) and Kasinathan (son of Giri) as co-accused. In view of this later development, S.Giri has filed the present petition for grant of anticipatory bail to him for the altered offences.

7. This Court heard the learned Counsel for S.Giri (petitioner),

learned Counsel appearing for S.Srinivasan (defacto complainant) and the learned Government Advocate (Criminal side) and perused the case diary.

8. Admittedly S.Srinivasan was tenant occupying the residential portion in the property owned by S.Giri. It is the assertion of S.Srinivasan that on 7.12.2012 he was physically dispossessed from the property, and that he called the Helpline 100, pursuant to which Police came to the place and sent both parties to the local Police Station. This fact has been admitted by the Inspector of Police, P-4 Basin Bridge Police Station in his counter affidavit filed in W.P.No.26026 of 2013, which is a collateral proceedings. Paragraph Nos.3 to 5 from the said counter affidavit is extracted below,

"3. With regard to the allegations made by the petitioner in paras 2 to 4 this respondent submits that the petitioner herein is a tenant under the 4th respondent in respect of a portion in the upstairs at No.63/2 T.K.Mudali Street, Choolai, Chennai - 600112. The 4th respondent seems to have requested the petitioner to vacate the premises, since the petitioner herein sought time to vacate the premises till she gets another accommodation.

4. With regard to the allegations made by the petitioner in paras 5 to 8 of the affidavit this respondent submits that there was a quarrel

between the 4th respondent and the petitioner herein and the tenant was forced to vacate the premises. As alleged by the petitioner the sub-Inspector of Police went to the premises based upon the emergent call made by the petitioner herein and both the parties were enquired and they were called by the 3rd respondent police for further enquiry. However, the petitioner herein appeared for enquiry and the 4th respondent failed to appear before the 3rd respondent police for further enquiry. However, the petitioner herein appeared for enquiry and the 4th respondent failed to appear before the 3rd respondent. Further the petitioner herein stated that the 4th respondent had locked the gate of the tenanted portion preventing the ingress and egress of the tenant. As such a complaint was registered in C.S.R.No.78 of 2012. Prior to this the 4th respondent herein also given a complaint against the petitioner which was also registered in C.S.R.No.178 of 2012. Prior to this the 4th respondent herein also given a complaint against the petitioner which was also registered as C.S.No.86/2012. Enquiry was not conducted properly since the 4th respondent failed to cooperate with the police officials.

5. Whiles, the 4th respondent indulged in illegal activities like locking of the gate, vacating the premises of the tenant without the knowledge of the tenant and he also abused

the petitioners with filthy language. When the police officials inspected the premises there were no things of the tenant in the rented portion as such the C.S.R.No.178/2012 was converted Crime No.137 of 2013 under Section 294(B), 341, 506 Part (i) IPC."

In the above paragraphs, reference to 'petitioner' is S.Srinivasan and reference to 'respondent' is S.Giri.

9. Though S.Giri was granted anticipatory bail in CrI.O.P.No.12718 of 2013 for the offences under Sections 294(b), 341, 506(i) IPC, it does not mean that he is automatically entitled to be released on anticipatory bail when larger offences have been disclosed during the course of investigation by the Police, for which an altered report has also been filed before the concerned Court. This Court is conscious of the fact that the FIR in Cr.No.137 of 2013 has been quashed as against Lingeswari (wife of S.Giri) and Kasinathan (son of S.Giri) on the ground that there are no *prima facie* materials against them. That apart, this Court has transferred the investigation in Cr.No.137 of 2013 from the file of Inspector of Police, to the file of Assistant Commissioner of Police, Pulianthope Range, to be conducted under the supervision of the Deputy Commissioner of Police.

10. Taking into consideration the nature of allegations against

S.Giri as disclosed in the altered FIR, this Court is of the view that this is not a fit case to grant anticipatory bail to S.Giri. Consequently, this petition is dismissed.

Index: Yes/No.

22-12-2015

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P.N. PRAKASH, J.

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Pre-Delivery Order in
Crl.O.P.No.23592 of 2013

Delivered on : 22-12-2015