



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the First day of April Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) No.14469 of 2014

BAGYALAKSHMI

..PETITIONER/DEFACTO COMPLAIINANT

Vs.

1 R.SATHIYAMOORTHY

2 RAJAPPAN

3 VASANTHA

4 S.SASIKALA

..RESPONDENTS 1 TO 4/PETITIONERS/
ACCUSED

STATE REP.BY

5 THE INSPECTOR OF POLICE

ALL WOMEN POLICE STATION,

JEEYAPURAM.

CR. NO.6 OF 2014.

..5TH RESPONDENT/COMPLAINANT

For Petitioner

: M/S.V.ILLANCHEZIAN Advocate

For Respondents 1 to 4

: MR.T.LENINKUMAR, Advocate

For Respondent No.5

: Mr.A.P.BALASUBRAMANI, Government Advocate
(Crl.Side)

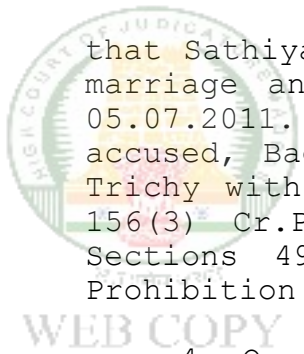
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the bail granted in Cr.MP.905 of 2014 dated 18.06.2014 for respondents 2 & 3 and 03.07.2014 for respondents 1 and 4 on the file of the Sessions Court, Tiruchirappalli.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.V.ILLANCHEZHIA, Advocate for the petitioner and of Mr.T.LENINKUMAR, Advocate for R1 to R4 and Mr.A.P.BALASUBRAMANI, Government Advocate (Crl.Side) for R5, the court made the following order:-

This application for cancellation of bail has been filed by the de-facto complainant for cancelling the anticipatory bail that was granted to the respondents 1 to 4/accused 1 to 4 by the learned Sessions Judge, Trichy, in Cr.M.P.No.905 of 2014 on 18.06.2014 and 03.07.2014 respectively.

2. For the sake of convenience, the parties would be referred to by their names.

3. Bagyalakshmi (de-facto complainant) got married to Sathiyamoorthy (A1) on 13.06.2008. It is stated by Bagyalakshmi that, at the time of marriage, her parents gave her 25 sovereigns of gold and other household articles. After marriage, Bagyalakshmi and Sathiyamoorthy lived with Rajappan (A2) and Vasantha (A3), the parents of Sathiyamoorthy. Through the wedlock, a daughter by name Lakshmipriya was born to Bagyalakshmi. It is stated by Bagyalakshmi that Sathiyamoorthy and his parents subjected her to untold cruelty and that Sathiyamoorthy would come drunk everyday and beat her mercilessly. It is further alleged by Bagyalakshmi



that Sathiyamoorthy married Sasikala (A4), while subsistence of the first marriage and through her, he has a child, by name, Mrudhula, born on 05.07.2011. Unable to withstand the suffering meted out to her by the accused, Bagyalakshmi approached the learned Judicial Magistrate No.III, Trichy with a complaint, which was referred to the police under Section 156(3) Cr.P.C. and this case has been registered for offences under Sections 498(A), 294(b), 323, 494, 406 IPC and Section 4 of Dowry Prohibition Act.

4. On coming to know that a case has been registered against them, Sathiyamoorthy, Rajappan, Vasantha and Sasikala (A1 to A4) filed Crl.M.P.No.905 of 2014 before the Sessions Judge, Trichy, praying for anticipatory bail.

5. The learned Sessions Judge, by order dated 18.06.2014 granted anticipatory bail to Rajappan (A2) and Vasantha (A3) by observing as follows:

"From a perusal of the records there is no specific allegation as against A2 and A3, which would attract the penal provisions referred to in this case. Further they are aged 60 and 58 years respectively. Taking into consideration of these aspects, this Court feels that as far as petitioners 2 and 3 are concerned, the anticipatory bail application can be considered."

6. As regards Sathiyamoorthy (A1) and Sasikala (A4), the matter was adjourned to another date. Again, when the matter was taken up on 03.07.2014, the learned Sessions Judge granted anticipatory bail to Sathiyamoorthy and Sasikala by observing as follows:

"The petitioners 1 and 2 were already granted anticipatory bail on 18.06.2014. The release of the petitioners/accused will in no way prejudice the investigation of the case. Taking into consideration of these aspects this Court feels that the petitioners 1 and 4 can be granted anticipatory bail. Hence, the petition is allowed. Anticipatory bail granted to petitioners 1 and 4 also with condition."

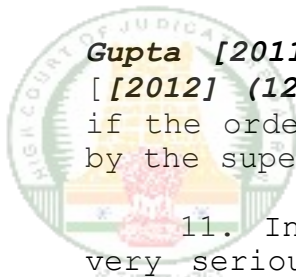
7. Aggrieved by the grant of anticipatory bail to all the accused, Bagyalakshmi has approached this Court for cancellation of anticipatory bail.

8. This Court ordered notice on the accused and a counter affidavit has been filed by Sathiyamoorthy on behalf of the accused. According to Sathiyamoorthy, he got married to Bagyalakshmi on 13.06.2008 and Bagyalakshmi lived with him only for 15 days. Thereafter she went to her parents house never to return. According to him, he made attempts to bring Bagyalakshmi back to his house, but in vain. According to Sathiyamoorthy, he was not even informed that Bagyalakshmi delivered a child. As regards the allegation of Bagyalakshmi that Sathiyamoorthy had married Sasikala, the counter is conspicuously silent on this aspect.

9. The learned counsel for Sathiyamoorthy contended that this Court should be slow in interfering with the anticipatory bail that has been granted by the Court below and that only when there are supervening circumstances warranting cancellation, should this Court intervene.

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10. I am unable to agree with this proposition in the light of the judgment of the Supreme Court in **Prakash Kadam vs. Ramprasad Vishwanath**



Gupta [2011(6) SCC 189] and **Kanwar singh Meena vs. State of Rajasthan [[2012] (12) SCC 180]**, wherein, the Supreme Court has clearly stated that if the order granting bail suffers infirmities, the same can be cancelled by the superior Courts even if there are no supervening circumstances.

11. In this case, the allegation against Sathiyamoorthy are indeed very serious inasmuch as he has subjected Bagyalakshmi to cruelty and left her and the child in the lurch to fend for themselves and he also retained her jewelry. The learned Sessions Judge had granted anticipatory bail to Rajappan and Vasantha on account of their age and relying upon that order, granted anticipatory bail to Sathiyamoorthy and Sasikala. Thus, there is a patent infirmity in the order granting bail to Sathiyamoorthy and Sasikala. This Court does not find any infirmity in the order dated 18.06.2014 granting anticipatory bail to Rajappan and Vasantha. But, whereas the order dated 03.07.2014 granting anticipatory bail to Sathiyamoorthy and Sasikala, suffers from legal infirmity as stated above. This Court does not want to interfere with the order granting anticipatory bail for Sasikala, in view of the fact that she being a lady must have been forced to marry Sathiyamoorthy by her parents and elders, for which, she cannot be penalised.

12. As regards Sathiyamoorthy, the allegations in the complaint are indeed very serious in nature and further the order granting anticipatory bail also suffers from legal infirmity and therefore, this Court is constrained to set aside the order dated 03.07.2014 in Cr.M.P.No.905 of 2014 granting anticipatory bail to Sathiyamoorthy alone and accordingly, the same is set aside.

13. This Criminal Original Petition is dismissed as regards as respondents 2 to 4.

sd/-
01/04/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, TRICHY.

2 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, JEEYAPURAM.

+1. CC to M/S.T.LENINKUMAR, Advocate SR.No.16447

+One cc to M/S.V.ILLANCHEZIAN, Advocate, SR.No.16493

ORDER IN

CRL OP(MD) No.14469 of 2014

Date :01/04/2015

PBK 06/04/2015 ::3P-5C: