



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Third day of February Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.1519 of 2015

T.DHARMARAJ

..PETITIONER/ACCUSED No.5

Vs.

STATE REP.BY THE INSPECTOR OF POLICE

MUSIRI POLICE STATION,

TRICHY DISTRICT.

CRIME NO.596/2014

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.MAHESWARAN Advocate

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

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

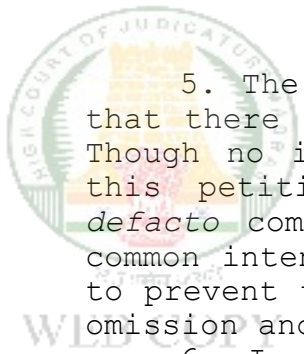
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 452, 294 (b), 307 and 336 of Indian Penal Code r/w Section 4 of Tamil Nadu Prevention of Women from Harassment Act, 2002, Section 3(1) of the Prevention of Damage to Public Property Act, 1984 and 379 (NP) of Indian Penal Code @ Sections 147, 452, 294(b), 307 and 336 of Indian Penal Code r/w Section 4 of Tamil Nadu Prevention of Women from Harassment Act, 2002, Section 3(1) of the Prevention of Damage to Public Property Act, 1984 and 379 (NP) and 302 of Indian Penal Code in Crime No.596 of 2014 on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that on 28.12.2014, the deceased in this case was set on fire by the accused in this case. According to the deceased, there was a civil dispute between the principal accused and her, on account of which, the principal accused along with this petitioner had entered her house and pulled her out and thereafter, doused her with kerosene and set fire to her. She was, immediately, rushed to the hospital, where she gave a statement to the police, which has been treated as a complaint, based on which, First Information Report has been registered.

3. Mr.R.Maheswaran, learned counsel appearing for the petitioner would submit that the deceased has given a dying declaration to the learned Magistrate subsequently, in which, the name of this petitioner is not found.

4. I am unable to agree with the submission made by the learned counsel appearing for the petitioner, because the complaint, on which, the First Information Report has been registered itself is the dying declaration though given to the police. That is the earliest version. In that version, she has very clearly referred to this petitioner as 'Thangam Tailor son (தங்கம் டைலர் மகன்)' having come inside her house along



5. The learned counsel appearing for the petitioner further submits that there is no individual overt act attributed to him by the deceased. Though no individual overt act has been attributed, yet, the fact that this petitioner accompanied the co-accused inside the house of the *defacto* complainant would itself, *prima facie*, show the existence of a common intention. Coupled with this fact, this petitioner did not attempt to prevent the others from committing the offence. An act amounts to both omission and commission.

6. In view of the serious nature of the allegations against the petitioner herein, I am of the view that this is not a fit case to grant anticipatory bail to the petitioner and hence, the Criminal Original Petition is dismissed.

sd/-
03/02/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.
- 2 THE INSPECTOR OF POLICE, MUSIRI POLICE STATION, TRICHY DISTRICT.

ORDER IN
CRL OP(MD) No.1519 of 2015
Date :03/02/2015

PBK 06/02/2015 ::2P-3C: