



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Seventeenth day of March Two Thousand Fifteen

PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) No.2097 of 2015

1 VASUDEVAN
2 ARUMUGAM

... PETITIONERS/ACCUSED NO.1 & 2

Vs

THE INSPECTOR OF POLICE
VEDASANDUR POLICE STATION, VEDASANDUR,
DINDIGUL DISTRICT. CRIME NO.21/2015

... RESPONDENT/COMPLAINANT

For Petitioner : M/S. R. GANDHI Advocate

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)

For Intervenor : MR.R.SEVUGARAJA, Advocate

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

ORDER : The Court Made the following order :-

On 23.02.2015, while granting interim anticipatory bail to the petitioners, this Court passed the following order:

"On 16.02.2015, this Court passed the following order:-

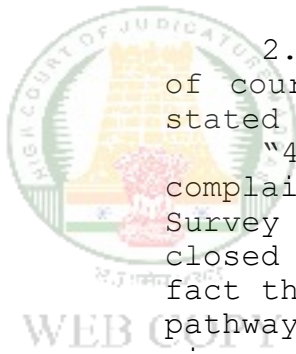
"This complaint has been registered pursuant to the direction under Section 156(3) Cr.P.C. by the learned Judicial Magistrate.

2. It is seen that the second petitioner Arumugam and Karthick were very good friends and they were doing business together and they also belong to the same community. During the course of business, they purchased some lands contiguously. There appears to be some dispute between the second petitioner and his friend Karthick in the business and on account of which, they got separated.

3. Now, Karthick, the defacto complainant needs access to his land. In this regard, it appears that before the village panchayatars both Karthick and Arumugam seem to have entered into an agreement on 22.05.2015 in which apart from other terms, Arumugam had agreed to give 22 feet pathway in favour of Karthick. After getting into the agreement, it is seen that Arumugam's pump set is located in the 18th feet and therefore, he was not able to give the entire 22 feet as pathway.

4. On the suggestion of this Court, Arumugam is directed to file an affidavit of undertaking that he will comply with the Panchayatars undertaking in all other respects and insofar as the 22 feet pathway is concerned, he is ready and willing to give 18 feet pathway.

5. Post 'for orders' on 23.02.2015. On that day, Arumugam should file an affidavit in Tamil giving the said undertaking before this Court."



2.Today, the 2nd petitioner has filed an affidavit which is of course in English, in which, at paragraphs 4 and 5, he has stated as follows:-

"4.I further submit that allegation of the de facto complainant is that I have agreed to provide 22 feet pathway in Survey No.284 leading to the said Karthick's Land but we have closed the said 22 feet pathway which is being used by them. In fact the same was not closed by us. The fact remains in the said pathway near the 21st and 22nd feet there exists a bore well which gives sufficient water which is being used by me for our agricultural operations. However, on seeing the exigency of the pathway, I am ready and willing to provide the pathway to the extent of 18 feet leading to the land of Karthick instead of 22 feet as claimed by the de facto complainant without prejudice to my rights.

5.I submit further that being aggrieved over the said criminal case; we have approached this Hon'ble High Court by filing the said petition seeking anticipatory bail. On 16.02.2015 when the above petition came up for hearing and after hearing both the parties, the Hon'ble High Court was pleased to direct me to file an undertaking affidavit. Accordingly, I am filing this affidavit by undertaking that I am ready and willing to provide the pathway to the extent of 18 feet in my Survey No.284 leading to the land of Karthick instead of 22 feet as claimed by the de facto complainant without prejudice to my rights."

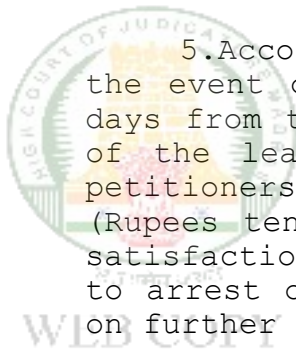
3.Under such circumstances, Interim Anticipatory Bail is granted to the petitioners till 09.03.2015. The petitioners shall appear before the respondent/Police every day at 05.30 P.M till 09.03.2015."

2.Today, the respondent Police have filed a status report, in which, in paragraph No.4, they have stated as follows:

"4. I respectfully submit that on the basis of the direction given by this Court both petitioners appeared before the Mediation and Conciliation Centre on 02.03.2015. The petitioners and the defacto complainant entered into the compromise and both were created a compromise memo. As per the compromise the petitioners herein allotted the pathway of 20 feet. Width except to places which were already the petitioners established a bore well, in that places 18 feet were allotted as a pathway. As per the direction given by this Hon'ble Court all the obstacles (8 coconut trees) were removed now the pathway is ready for usage without any interference, to prove the same the photographs were also produced before this Hon'ble Court. The direction given by this Hon'ble Court was complied and the dispute regarding the pathway between the parties were settled amicably."

3.The learned counsel for the defacto complainant also submits that the petitioner has given the pathway as undertaken by him.

4.Under such circumstances, this Court is inclined to grant <https://hccourt.gov.in/services> to the petitioners.



5. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Court of the learned Judicial Magistrate, Vendasandur, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners shall report before the respondent police as and when required for interrogation.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Judicial Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

sd/-
17/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1. THE JUDICIAL MAGISTRATE, VEDASANDUR.
2. -DO- THRO THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL.
3. THE INSPECTOR OF POLICE
VEDASANDUR POLICE STATION, VEDASANDUR, DINDIGUL DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. R. GANDHI Advocate SR.No.12673

SR : 19.03.2015 : 3P/6C

ORDER
IN
CRL OP(MD) No.2097 of 2015
Date :17/03/2015