



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

Monday, the Nineteenth day of January Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.377 of 2015

WEB COPY

1 SANTHANA SATHISH RAJA
2 JAYAKUMAR
3 ROSELIN

... PETITIONER/ACCUSED NOS.2 TO 4

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, RAMESHWARAM,
RAMANATHAPURAM DISTRICT.
CR. NO.19/2014

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.C.VAKEESWARAN Advocate

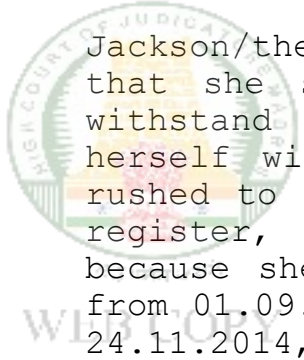
For Respondent : Mr.A.P.BALASUBRAMANI,
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent police in Crime No.19 of 2014, on the file of the respondent police for offences under Section 450, 376(2)(m), 506(ii) 306 IPC read with 116 of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, the petitioners are now before this Court seeking Anticipatory Bail.

2.The case of the prosecution is that on 24.11.2014, the de-facto complainant gave a type-written complaint making certain allegations. On a reading of the complaint, it is seen that the de-facto complainant, who is about 19 years, is studying first year in BCA. Jothilakshmi, the sister of the de-facto complainant, is a neighbour of the petitioners herein. On 25.07.2014, the de-facto complainant came to the house of Jothilakshmi. According to the de-facto complainant, Michael Jackson's/A1 grandfather had died and the de-facto complainant's parents, sister and brother-in-law had gone for the funeral and the de-facto complainant was alone in the house of Jothilakshmi. At that time, Michael Jackson/A1 had come to her house around 11.00 p.m. in the night and had offered her a cool drink. She consumed the cool drink and thereafter she did not know anything. She alleges that on the next day, Micheal Jackson/A1 told her that he had sexual intercourse with her and he has taken obscene photos of her. She further alleges that Michael Jackson was threatening her continuously and was sexually exploiting her. On 30.08.2014, she alleges that the parents and brother of Michael



Jackson/the petitioners herein had threatened her and warned her that she should not reveal these facts to anybody. Unable to withstand the torture, she douse herself with kerosene and set herself with fire on 01.09.2014 in her parental house. She was rushed to the Government Hospital, Rameshwaram and in the accident register, it is recorded that she attempted to commit suicide, because she had failed in the examinations. She was an inpatient from 01.09.2014 to 08.10.2014. Thereafter, she was discharged. On 24.11.2014, she has lodged the complaint narrating all these facts, based on which, the present case has been registered by the respondent police.

3.Today, the Investigating Officer is present in the Court. It appears that the respondent police has not done any investigation with regard to the admission of the de-facto complainant on 01.09.2014 in the Government Hospital and the circumstances, under which, she attempted to commit suicide. Not even a case under Section 309 IPC is registered for that incident. When this Court questioned the Investigating Officer, she informed that since the de-facto complainant did not come forward to give any complaint, the jurisdictional police did not register a case. I am unable to accept this explanation, because, if a cognizable offence occurs, the statutory duty is cast upon the police to register an FIR, which does not require the consent of the de-facto complainant. Be that as it may, on 24.11.2014, Michael Jackson/1 was arrested and nothing was recovered pursuant to his arrest.

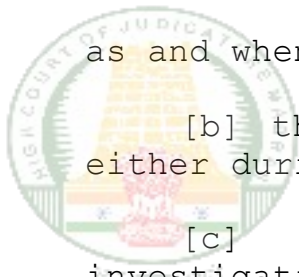
4.As regards the allegation against these petitioners, they had allegedly threatened the de-facto complainant. What is surprising to this Court is, even when the de-facto complainant was in the burns Ward of Government Hospital, she had not made any whisper of allegations against anyone. Only after she was discharged, merely after a month being discharged from the hospital, she has come forward to lodge this complaint on 24.11.2014.

5.The learned counsel for the intervenor very strongly objected to the grant of anticipatory bail to these petitioners and contended that the de-facto complainant is only 19 years old. On the contrary, it is seen that Michael Jackson/A1 is 18 years old and Santhana Sathish Raj (A2) is also 19 years old.

6.In the facts and circumstances of the case, I am inclined to grant anticipatory bail to the petitioners, but with conditions.

7. Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on his appearance before the learned Judicial Magistrate, Rameshwaram, on executing 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 petitioner shall report before the respondent police every day, at 10.30 a.m. for a period of two weeks and thereafter,



as and when required for interrogation.

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

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

[d] On breach of any of the aforesaid conditions, the learned 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 petitioner released on bail by the learned 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].

8. Since I am not satisfied with the investigation done so far by the respondent police, I am directing the case file be transferred to the Deputy Superintendent of Police, Rameshwaram, who shall be the Investigating Officer in this case.

sd/-

19/01/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE, RAMESHWARAM
- 2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE RAMANATHAPURAM DISTRICT
- 3 THE DEPUTY SUPERINTENDENT OF POLICE, RAMESHWARAM
- 4 THE INSPECTOR OF POLICE ALL WOMEN POLICE STATION, RAMESHWARAM, RAMANATHAPURAM DISTRICT.
- 5 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.C.VAKEESWARAN Advocate SR.No.2111
ORDER
IN
CRL OP(MD) No.377 of 2015
Date :19/01/2015

NA/22/01/2015/P2/7C