



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Sixteenth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.4030 of 2015

WEB COPY

1 EZHIL

2 JOSE

..PETITIONERS/ACCUSED 6 & 7

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.92/2015

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.SUBRAMANIAN, for Mr.M.SARAVANAN Advocate

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

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

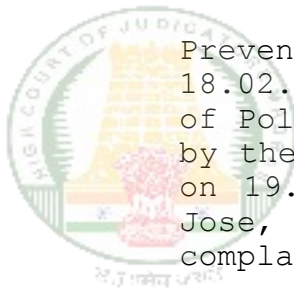
ORDER : The Court Made the following order :-

The petitioners, who were arrested and remanded to judicial custody on 19.02.2015 for the alleged offences punishable under Sections 120(b), 147, 148, 447, 341, 451, 294(b), 506(ii), 427, 395, 398 IPC and Section 4 of Women Harassment Act, 2002 in Crime No.92 of 2015 on the file of the respondent police, seek bail.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the State.

3. The respondent police have filed a status report, wherein in Paragraph No.4, it is stated as follows:

"4. It is most respectfully submitted that on 18.02.2015 at 20.00 hrs one Jeenamol, W/o.Suresh Kumar, Kamarajar Street, Kasavanvilai, Marthandam, Kanniyakumari District presented a written complaint stating that 6 named accused, viz., (1) Justin, S/o.Yesudhas, Koonimavilai Veedu, Mulagumoodu, (2) Pushpabai, W/o.Natarajan, Kasavan Vilai, Marthandam, (3) Suresh Kumar, S/o.Natarajan, Kasavan vilai, Marthandam, (4) Vijayakumar, S/o. Natarajan, Velmurugam Nagar, Kulathoor, Chennai, (5) Beula Dorathi, W/o.Vijayakumar,, Kulathoor, Chennai, (6) Ezhil, S/o.Padmanapan, Konathu vilai, Mulagumoodu and others came in 6 vehicles and its owners and 20 other identifiable persons conspired and trespassed into her house with deadly weapons abused the petitioner with filthy language, restrained her and threatened her with dire consequences. They also alleged to have damaged the gate of the compound wall doors of the house, window glasses and they disconnected the electric connection and looted all the household articles like dresser, vessels, television box, Table cot, gas cylinder and refrigerator and thereby caused loss to the tune of Rs.5 lakhs.



Prevention of Women Harassment Act, 2002 was registered on 18.02.2015 at 20.00 hrs by Mr. Jebastin Gracious, Sub-Inspector of Police, Marthandam Police Station. This case was investigated by the respondent. In this case respondent arrested two accused on 19.02.2015, namely (1) A6 - Ezhil, S/o. Padmanabhan and (2) Jose, S/o. Savaraimuthu - identifiable persons mentioned in the complaint petitioner."

WEB COPY

4. Learned counsel for the petitioners submitted that these petitioners had nothing to do with alleged offences and that the defacto complainant and her husband Suresh Kumar (A3) were not in good terms and they are estranged. He also submitted that A2 and A3 had executed a sale deed on 10.12.2014 in favour of A1 in respect of the property in which offences had allegedly taken place. He further submitted that the petitioners and A1 had given a complaint to the respondent police on 10.02.2015 and also filed a suit in O.S.No.51 of 2015 on 16.02.2015 against the defacto complainant and her brothers, for permanent injunction, restraining them from interfering with the peaceful possession and enjoyment of the house in which the said incident had taken place.

5. The fact that A1 had filed a suit on 16.02.2015 after purchasing the property on 10.12.2014, itself goes to show that there is something wrong with regard to the possession of the property. The defacto complainant has clearly stated about the involvement of Ezhil (1st petitioner) in the offence. The name of the 2nd petitioner does not figure in the FIR.

6. Under such circumstances, this Court is of the view that **this is a fit case to grant bail to the second petitioner alone. Accordingly, the second petitioner is ordered to be released on bail,** subject to the following conditions:

[a] the 2nd petitioner shall execute a 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 learned Judicial Magistrate No.I, Kuzhithurai;

[b] the 2nd petitioner shall report before the respondent police daily at 10:30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[c] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the 2nd petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner 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].

7. This petition in respect of the 1st petitioner is dismissed.

sd/-

16/03/2015

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Sub-Assistant Registrar (C.S.)



TO

1 THE JUDICIAL MAGISTRATE NO.I, KUZHTHURAI, KANYAKUMARI DISTRICT.

2 -do-thro'THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI AT NAGERCOIL.

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

4 THE INSPECTOR OF POLICE, MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.

5 THE OFFICER INCHARGE, SUB JAIL, NAGERCOIL.

+1. CC to M/S.M.SARAVANAN Advocate SR.No.12360

ORDER IN

CRL OP(MD) No.4030 of 2015

Date :16/03/2015

PBK 16/03/2015 ::3P-7C: