



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

Tuesday, the Twenty Seventh day of October Two Thousand Fifteen

PRESENT

WEB COPY

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.5790 of 2015

1 R. SUBBULAKHSMI

2 R. KARTHIKAYINI

... PETITIONERS/ACCUSED RANK NOT KNOWN

Vs

STATE REP BY THE INSPECTOR OF POLICE,
SUBRAMANIAPURAM POLICE STATION,
MADURAI DISTRICT,
(CRIME NO. 432 OF 2015). ... RESPONDENT/COMPLAINANT

L.PANDIAN ... PETITIONER/INTERVENOR
/DEFACTO COMPLAINANT

For Petitioner : M/S.R.VENKATESWARAN Advocate
For Respondent : MRS.S.PRABHA Govt. Advocate (Crl. Side)
For Intervenor : MR.R.ANAND Advocate

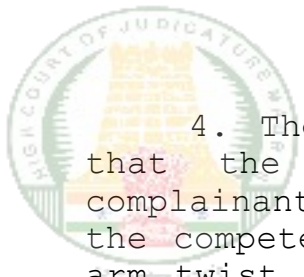
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused Nos.1 and 2, apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 420, 465, 468 and 506(i) of I.P.C., in Crime No.432 of 2015 on the file of the respondent police and hence, seek anticipatory bail.

2. According to the de-facto complainant Mr.Pandian that the first accused and her husband Rajendran borrowed Rs.28 lakhs on 06.09.2012 agreeing to repay the amount with interest within a short period. However, the husband of the first accused died on 25.09.2012 and after his demise, the first accused has repaid Rs.15 lakhs on 26.09.2012 and for the balance amount of Rs.13 lakhs, she executed a document with different signature to cheat the de-facto complainant.

3. The learned counsel for the petitioners submitted that they are admitting the borrowel of Rs.28 lakhs from the de-facto complainant and after the demise of the husband of the first accused on 25.09.2012, on the very next day, the first accused repaid Rs.15 lakhs and subsequently, paid Rs.5 lakhs to the de-facto complainant and as on date, they have to pay Rs.8 lakhs only.



4. The learned counsel for the petitioners further submitted that the transaction between the accused and the de-facto complainant are purely civil in nature and in stead of approaching the competent civil Court, a false criminal complaint was given to arm twist the accused to come for a settlement before the police. The learned counsel for the petitioners also submitted that without prejudice to their right in the criminal case and to show their bona fide, they are ready to pay Rs.13 lakhs, since the de-facto complainant is not admitting the receipt of Rs.5 lakhs and treating the same as an interest. The first petitioner has filed an affidavit dated 14.10.2015, stating that she will pay the balance amount of Rs.13 lakhs to the de-facto complainant without interest after selling their immovable properties.

5. Mr.R.Anand, learned counsel for the intervenor submitted that the accused, with a view to defeat the right of the de-facto complainant to file a civil case, issued a receipt with different signature and therefore, they have committed an offence of cheating. It is further contended that the accused have not produced any piece of paper for payment of Rs.5 lakhs to the de-facto complainant and the accused has to repay the amount within a time frame.

6. Heard the learned Government Advocate (Crl.side).

7. Considering the facts and considering the rival submissions of the counsel and the affidavit of undertaking filed by the first petitioner, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance before the learned Judicial Magistrate No.IV, Madurai and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and the first petitioner shall pay the balance amount of Rs.13 lakhs (Rupees Thirteen Lakhs only) as expeditiously as possible, preferably on or before 28.02.2016 and the petitioners shall appear before the respondent police as and when required. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

8. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
27/10/2015

/ TRUE COPY /



- TO
- 1 THE JUDICIAL MAGISTRATE BO.VI, MADURAI
 - 2 THE CHIEF JUDICIAL MAGISTRATE, MADURAI
 - 3 THE INSPECTOR OF POLICE,
SUBRAMANIPURAM POLICE STATION,
MADURAI DISTRICT.
 - 4 THE ADDL. PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to M/S.R.VENKATESWARAN Advocate SR.No.62863
+1cc to Mr.R.Anand, Advocate Sr.No. 63073

ORDER
IN
CRL OP (MD) No.5790 of 2015
Date :27/10/2015

AA/AMF/SAR-II/06.11.2015/3p-7c