



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

Tuesday, the Thirtieth day of June Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.9164 of 2015

WEB COPY

1 SUBBU  
2 THANGARAJ  
3 MUTHUSAMY  
4 LAKSHMANAN @ LAKSHMIPATHY  
5 KARTHICK

..PETITIONERS/ACCUSED 1 to 5

Vs.

THE STATE REP.BY  
THE INSPECTOR OF POLICE  
DISTRICT CRIME BRANCH,  
TRICHY, TRICHY DIST.  
(CRIME NO. 11 OF 2015)

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.A.JOEL PAUL ANTONY Advocate  
For Respondent : Govt. Advocate ( Crl. Side)  
For Intervener : MR.B.JAMEEL ARASU, 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 to 5, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 34, 120(b), 406, 408 and 418 of I.P.C., in Crime No.11 of 2015 on the file of the respondent police and hence, seek anticipatory bail.

2. The case of the prosecution is that the first accused was an employee of the de-facto complainant and by fabrication of accounts, he misappropriated Rs.80 lakhs.

3. The learned counsel for the petitioners submitted that the de-facto complainant preferred a first complaint on 17.02.2015 to the respondent and after enquiry, the complaint was closed on 06.04.2015 stating that the de-facto complainant has no records to substantiate the allegation of misappropriation of 80 lakhs, that the de-facto complainant suppressing the earlier complaint, filed a second complaint on the very next day i.e., on 07.04.2015 with the same allegation and also filed a petition in Crl.O.P.(MD).No.6665 of 2015 before this Court, seeking direction to register a case and when the petition was listed for hearing on 16.04.2015, the learned Government Advocate (Crl.side) submitted that the complaint was enquired into and closed.

4. It is further submitted that the de-facto complainant suppressing the earlier complaint, filed a second complaint on the very next day i.e., on 07.04.2015 with the same allegation and also filed a petition in Crl.O.P.(MD).No.6665 of 2015 before this Court, seeking direction to register a case and when the petition was listed for hearing on 16.04.2015, the learned Government Advocate (Crl.side) submitted that the complaint was enquired into and closed.

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complainant had not produced the order passed in CrI.O.P.(MD).No.6665 of 2015 and on the other hand, stated in the private complaint as if this Court has given liberty to approach the lower Court; that the second petitioner is the father-in-law of the first petitioner and the petitioners 3 to 5 are said to have purchased rice from the first petitioner and that the petitioners are innocent and they have been falsely implicated in this case.

5. Per contra, the learned counsel for the intervenor submitted that the respondent without registering a case and without proper enquiry, had abruptly closed the complaint, which necessitated the de-facto complainant to approach the learned Magistrate under Section 157 of Cr.P.C., for registering the complaint; that in cases, where the respondent closed the complaint after registration of the case, the de-facto complainant will get an opportunity to protest before the concerned court and in cases of closure without registration of the case, the de-facto complainant can very well approach the learned Magistrate for redressal of his grievance. The learned counsel for the intervenor also submitted that there is no suppression of fact in this case.

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

7. Considering the facts and circumstances of the case, this Court is not inclined to accept the arguments of the learned counsel for the intervenor, since the de-facto complainant has obtained an order from the Judicial Magistrate suppressing the earlier order of this Court and by making false averments in the private complaint.

8. The learned counsel for the petitioners seeks permission of this Court to withdraw this petition for the fifth petitioner. Hence, this petition is dismissed against the fifth petitioner.

9. In view of the above facts, this Court is inclined to grant bail to the petitioners 1 to 4 with certain conditions. Accordingly, the petitioners 1 to 4 are ordered to be released on bail in the event of their arrest or on their appearance before the learned Judicial Magistrate, Manapparai, Trichy District 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 on further condition that the petitioners 1 to 4 shall appear before the respondent police daily at 10.00 a.m. for a period of two weeks and thereafter as and when required. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

10. 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/-  
30/06/2015

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Sub-Assistant Registrar (C.S.)



TO

1 THE JUDICIAL MAGISTRATE,  
MANAPPARAI.

2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE  
TRICHY.

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

4 THE INSPECTOR OF POLICE  
DISTRICT CRIME BRANCH, TRICHY,  
TRICHY DISTRICT.

+1. CC to M/S.A.JOEL PAUL ANTONY Advocate SR.No.34709  
+1cc to Mr.B.JAMEEL ARASU, Advocate Sr.No.33346

akm/03.07.15 /3p-7c/

ORDER  
IN  
CRL OP(MD) No.9164 of 2015  
Date :30/06/2015