



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

Friday, the Fifteenth day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

WEB COPY

CRL OP(MD) Nos.18297 ,18689 and 21562 of 2015

S. RAJAMEERAH ... PETITIONER / ACCUSED RANK NOT KNOWN
IN CRL OP(MD) No.18297 of 2015

MSVN.MEYYAPPAN CHETTIAR ... PETITIONER / ACCUSED NO.2
IN CRL OP(MD) No.18689 of 2015

P. VENKADESAN ... PETITIONER / ACCUSED RANK NOT KNOWN
IN CRL OP(MD) No.21562 of 2015

Vs.

THE STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
SIVAGANGAI DISTRICT.
(CRIME NO. NOT KNOWN / 2015 IN
CRL.OP(MD)NO.18297/2015) .. RESPONDENT/COMPLAINANT
(CRIME NO.20/2015 IN
CRL OP(MD)No.21562&18689/2015) IN ALL THE PETITIONS

FOR PETITIONER : MR.S.R.RAJAGOPALAN, FOR M/S.A.S.VAIGUNTH, ADVOCATE
IN CRL OP(MD) NO.18297 OF 2015

FOR PETITIONER : M/S.R.VINODH BHARATHI,ADVOCATE
IN CRL OP(MD) NO.18689 OF 2015

FOR PETITIONER : M/S.M.VEERA KATHIRAVAN,ADVOCATE
IN CRL OP(MD) NO.21562 OF 2015

FOR RESPONDENT : MR.A.P.BALASUBRAMANI, GOVERNMENT ADVOCATE (CRL.SIDE)
IN ALL THE PETITIONS

FOR INTERVENOR : M/S.G.R.SWAMINATHAN, Advocate for
M/s.T.ANTONY ARUL RAJ, ADVOCATE
IN CRL.OP(MD)NO.18297/2015

PETITIONS FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.
ORDER: The Court made the following Order:-

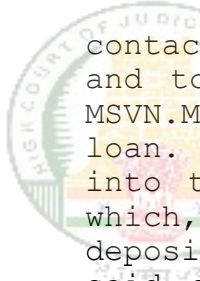
Reserved on	Pronounced on
31.03.20166	15.04.2016

On a complaint dated 9.9.2015, lodged by one Roy.M.Mathew, who runs several business houses, including Muthoottu Mini Financiers Limited, the respondent/Police registered a case in Crime No.20 of 2015 on 16.9.2015 under Sections 406, 420 and 120B IPC against,

- (1) Sanjay Menon;
- (2) S.Rajameerah (petitioner in Crl.O.P.(MD)No.18297 of 2015); and
MSVN.MEYYAPPAN CHETTIAR (petitioner in Crl.O.P.(MD)No.18989 of 2015).

<https://hccservices.mssun.mv/hccservices/>

2. The crux of the allegation in the FIR is that the defacto complainant was in need of finance, knowing which, Sanjay Menon (A-1)



contacted him and promised to arrange funds for his business expansion, and took him to one S.Rajameerah (A-2), who in fact introduced him to MSVN.Meyyappan Chettiar (A-3), who assured to arrange Rs.1,000/- crores as loan. The defacto complainant and MSVN.Meyyappan Chettiar (A-3) entered into two Memorandums of Understanding (MOU), both dated 3.3.2015, under which, the defacto complainant gave a sum of Rs.3 crores as security deposit to S.Rajameerah (A-2), through bank transfer. After getting the said sum, the accused neither arranged for the loan, nor returned the security deposit, resulting in the defacto complainant lodging the FIR as stated above.

3. Mr.S.R.Rajagopalan, learned Counsel appearing for the petitioner in Crl.O.P.(MD)No.18297 of 2015 read through the two Memorandums of Understanding and contended that a simple civil transaction has been given criminal colour by the defacto complainant, in as much as, failure to keep up the promise can never amount to breach of trust, warranting registration of case under Sections 406, 420 and 120B IPC. He also contended that there is an arbitration clause in the MOUs, under which, if any dispute arises, the parties can refer the matter to arbitration.

4. At the first blush the said argument did sound convincing.

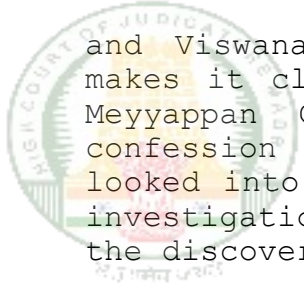
5. Mr.G.R.Swaminathan, learned Counsel appearing for the defacto complainant submitted that the accused had laid a well planned snare to trap the defacto complainant, and thus relieved him of more than Rs.3 crores over a period of time. He brought to the notice of this Court that S.Rajameerah (A-2) has filed a pauper suit before the District Judge, Madurai, against the defacto complainant for a decree of Rs.25 lakhs contending that the defacto complainant has borrowed the sum on 21.10.2014 and issued a cheque for the said sum, which was dishonoured for insufficiency of funds. Mr.G.R.Swaminathan further contended that the said cheque was given as security by the defacto complainant under the two MOUs, and as the accused, after receiving the huge deposit, did not take any step to obtain the loan of Rs.1,000/- crores, the defacto complainant smelt something fishy, and therefore did not honour the cheques.

6. The learned Additional Public Prosecutor appearing for the State submitted that MSVN Meyyappan Chettiar has seven cases of identical nature, and also submitted the case details.

7. From the above, it appears that the accused have been operating as a syndicate by promising loans to businessmen, and obtaining security deposits from them, and cheating them. In this case there are sufficient materials on record to show the transfer of a sum of Rs.3 crores under the MOUs to the bank account of S.Rajameerah on 20.3.2015 (Rs.1 crore) and on 3.3.2015 (Rs.2 crores).

8. Mr.S.R.Rajagopalan, learned Counsel submitted that these amounts were withdrawn by S.Rajameerah, and immediately thereafter were returned to the defacto complainant.

9. This explanation sounds little improbable especially in the light of the assertion of S.Rajameerah that the defacto complainant borrowed Rs.25 lakhs, for which, he has filed a pauper suit as stated above. This itself *prima facie* shows that the accused had necessary intention to deceive the defacto complainant, and turn the tables against him by filing a pauper suit, as if the defacto complainant owes the accused money. The Police have arrested Senthil Ganesh (A-7)



and Viswanathan (A-10), and a reading of their confession statements makes it clear that they have all ganged up with S.Rajameerah and MSVN Meyyappan Chettiar to cheat the defacto complainant. Though the confession is inadmissible in evidence during trial, yet, it can be looked into by this Court while dealing with the bail application during investigation in order to find out the magnitude of the crime and also the discovery of new facts, which was hitherto unknown to the Police.

10. In view of the above discussion, this Court is of the opinion that these are not fit cases to grant anticipatory bail to the petitioners. Consequently all the petitions are dismissed.

sd/-
15/04/2016

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

TO

1. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
SIVAGANGAI DISTRICT.

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

+ 1 CC TO MR.T.ANTONY ARUL RAJ, ADVOCATE IN SR NO.21210

+ 1 CC TO MR.C.JEGANATHAN, ADVOCATE IN SR NO. 221372

ORDER
IN
CRL.OP(MD) Nos.18297 ,18689
and 21562 of 2015
Date :15/04/2016

VR/AR

TE/AN-MP/AR-I : 21/04/2016 : 3P/5C